

BILLS OF EXCHANGE

**A comprehensive study of Negotiable
Papers based on the Bills of
Exchange Act.**

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Shaw Schools Limited
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Negotiable Papers

LESSON I.

All civilization embodies the idea that men are not at liberty to do as they please. The man who is a law unto himself has no place in a civilized community. We commonly hear the expression, "He has no right to do that." A man has no right to commit murder, for example.

And yet this does not mean that all rights are taken away from the citizen in a civilized community. The very idea of doing business involves the idea of at least two rights that the civilized man has. He has a right to own things. He has a right to make bargains. The first right is associated with the idea of Property. The second right is associated with the idea of Contract.

It is not easy to give a definition of the term "Property." When we speak of a man of property, we think of the tangible, material things that belong to him—lands, houses, jewelry. And yet a man may have none of these and still be a man of property. Think, for example, of the man who has patented some invention and is offered millions for his patent. Even if we think of a tangible thing—a house, for example—and consider the owner selling it, the idea is that a new man has acquired the right to enter into the use of that house.

Property may, therefore, be understood as including all rights which are capable of being transferred to others, of being made available for payment of debts, or of being passed to heirs at death.

Now, business is largely a matter of buying and selling these rights, and the bargain by which the transfer is brought about, is known as a Contract. A Contract may be defined as an agreement, bargain, or engagement, enforceable at law, made between two or more persons, by which rights are acquired by one or more, to acts or forbearances on the part of the other or others.

In discussing negotiable papers, we are simply discussing three papers that set forth the terms of certain contracts, very familiar to any man of business. The law concerning these contracts is given in the Bills of Exchange Act. This is a Dominion Act, so that it gives the law concerning these papers, no matter in what part of Canada one may be.

The three papers are:—

1. Bill of Exchange
2. Promissory Note
3. Cheque

Material Supplied

You are given a copy of the Act and three Charts. Always keep these handy, as they will be referred to from time to time. We do not

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expect you to grasp all that is on the Charts at a reading of them, any more than we would expect you to understand the Act from a casual reading of it. By following our instructions, however, we expect you to become quite familiar with both.

Order of Work

First, direct attention to Chart 1. The three papers dealt with in the Bills of Exchange Act, are defined and illustrated.

The three definitions must be learned, word for word. There are not many places in which we advise quoting the Act, verbatim, but where we do advise it, the student will do well to pay heed. There is only one legal definition for each of these papers and there is nothing "just as good".

The words in italics are intended to bring out, in strong relief, the peculiar features of each contract.

Item 4 on Chart 1 illustrates a Bill of Exchange. It is particularly important to learn the names of the different parties to the contract by the names with which the Act designates them. Half the difficulty that some experience with the Act, springs from the fact that they have no idea of who is meant by the Drawer, for example.

The course of the Bill may be noted. The Drawer, Brown, signs and issues the paper to the Payee, Doe. The Payee presents to the Drawee, Roe, for acceptance. After acceptance, Doe may hold it or negotiate it. If he decides to negotiate, his endorsement will appear, and John Doe who was Payee now becomes Endorser. We can't look at the face of the paper, however, and say that Doe is termed Endorser just because he may at some time in the future endorse. If we turn to the back of the paper and find his name there, it is time enough then to describe him as Endorser. Other endorsers may appear as further negotiation of the paper takes place.

When Roe accepts the paper, he becomes the person primarily responsible for its payment. If he fails to pay, the Drawer, Brown, and the endorsers, are the second line of recourse to the holder.

The definition of a Promissory Note and the form of the note, also the definition and form of the Cheque should be studied in the same way.

Chart 2 may now be placed before you. We shall have occasion to refer to this from time to time, so that all we ask you to do now, is to take in the general import of the paper. Never mind worrying over the fact that some detail is not understood at present. Try to get the general outline that is presented. We shall discuss details in succeeding lessons.

Run the eye down the matter at the left side of the Chart. It deals with contracts in general. Following the definition of a contract, we learn that there are four essentials to the validity of any contract, —Competent Persons, Mutual Consent, Lawful Object, and Sufficient

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Consideration By the way, Consideration when used in this connection, means that which is given in return; as, for instance, where a person says, "in consideration of the sum of One Dollar, I do so and so."

Next, we learn that some contracts must have their terms reduced to writing. If this is the case, the one signing, must not only sign, but deliver or hand over the document to the other party, before it is effective.

Lastly, we learn that rights acquired under contract, may be transferred to another. The legal term for this transfer is "Assignment". Sometimes, a man has to make an assignment for the benefit of his creditors, but we must rid our minds of the idea that a man assigns only when he is in deep water, financially. For example, I may have leased a store for \$100 a month. You come along and offer me \$150 a month for it. I assign, or transfer, to you my right to use that store. I am not doing so because I am bankrupt, but because I see an easy way to make \$50 a month.

In passing, we may note that when any right is thus assigned, the one to whom it is transferred will get just the measure of right that the transferor had. Thus, if a man has a stolen horse in his possession, he has no right to the horse. He may go through the motions of selling or assigning the horse to you, but you can not get any right to the horse because the seller had no right. You may talk for a week about your good faith in buying, about the payment you made, and all the rest of it. The blunt fact remains that you can get no right to the horse from a man who had no right.

Now, run the eye down the right side of Chart 2. It is intended to show that in dealing with Bills, Notes and Cheques, we are simply dealing with special forms of Contract. Any one who thinks that signing one of these papers in any capacity involves no liability, may learn differently by reading sections 128, 130, 133 and 185 of the Act. Never mind studying them too closely at present. It is sufficient that we know that the one who signs, enters into an engagement or contract.

Next, we learn that these special contracts are supposed to present the four essentials of Competent Persons, Mutual Consent, Lawful Object and a Sufficient Consideration.

Then we note that these contracts present the special essential that their terms must be reduced to writing, and consequently, the one who signs, must also deliver or hand over the paper to another.

Lastly, we note that the right which one may acquire under a Bill, Note, or Cheque, may be assigned or handed over to another, but here we note the great feature which distinguishes these papers from any other thing which may be bought or sold. We have shown that the man who steals a horse, can not give me any right to the horse because he had no right. We shall learn in the study of these papers that a man may have absolutely no right to a certain note,

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for example, and yet he may sell that note to me and I shall have a perfectly good right to it.

For instance, a man may, under fraudulent misrepresentation, get you to sign a note at 60 days for \$100. If he kept it himself and presented it at maturity, he would certainly be refused payment by you, when you learn that you had been deceived. But he sells the note to some one who buys it in good faith, not knowing of the fraud. This other person can make you pay. In other words, the man who had no right to that note, can give to another a perfectly good right.

The word which indicates this peculiar condition of affairs, is the word, "Negotiable". To be negotiable, a paper must, of course, be capable of being transferred or assigned. But all things that can be assigned are not negotiable. Only bills, notes, and cheques come under that classification because, when transferred to a holder in due course, they pass to him free of all defects of title and set-offs or contra accounts that may have existed against them in the hands of the original holder.

QUIZ QUESTIONS

Note. The Quiz Questions are *not* to be answered unless you feel that in one or more of them you are not sure of the answer. In such cases you are quite at liberty to submit answers to any of these Quiz Questions and we shall be pleased to give you our constructive criticism on these answers.

REFERENCES

Questions 1 to 11G. K., S. 56, 74b.

1. My pocket is picked of a \$5 bank note. Some one points out the thief to me. In his pocket is found a \$5 bank note which by a private mark is identified by me as the note I lost. To whom does the bank note rightfully belong? Why?

2. Suppose that before coming up with the thief he had time to drop into a shoe store and, in the ordinary way of trade, had bought a pair of shoes paying the \$5 note for them. In tracing up my man I go to the shoe store. The storekeeper is kind enough to open the cash register and show me the note he had taken in. To whom does the note belong? Why?

3. A horse is stolen from my stable. I set out to trace him and come upon the thief with the horse in his possession. To whom does the horse belong? Why?

4. Suppose that before I came up with the horse the thief had time enough to take him to a livery stable and sell him, the livery man buying him in good faith and paying value for him. I find the horse in the livery stable and can prove that he is the horse stolen from me. To whom does the horse rightfully belong? Why?

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5. Is there any difference between the \$5 note and the horse, as above spoken of? If so, explain the difference.

6. A has an account against B for \$100. You buy the account from A. He makes out the usual statement of account and on it puts the usual assignment: "For value received I hereby assign to Student all my right, title and interest in this account. (Signed) A." When you come to collect payment from B, he proves that when you bought the account from A he (B) had a contra account against A for \$50. He will not, therefore, pay more than \$50 to settle. How much can you collect? Why?

7. A has a note against B for \$100. A sells this note to you. When you come to collect the amount of the note at its due date, B claims that at the time A sold the note to you he owed him (B) \$50 for services rendered, and owes it yet. He refuses to pay more than \$50 to settle. How much can you collect? Why?

8. If there is any difference between the account and the note, referred to in questions 6 and 7, explain it.

9. Is there any similarity between the note mentioned in question 2 and the note mentioned in question 7? If so, explain it.

10. An agent approaches a farmer, and, under pretence that he is getting him to sign a receipt for trees delivered, gets the farmer to sign a note for \$100. Can the agent collect the note at maturity? Explain.

11. Suppose in question 10 that the agent, instead of presenting the note himself, had sold it in the ordinary way of business to a banker, who bought the note in good faith and paid value for it. Can the banker collect the note at maturity? Explain.

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EXAMINATION QUESTIONS
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Lesson 1.

Directions to Student

Note. The *Examination Questions* are the ones which we expect you to answer and on which you are to submit the work to us.

Prepare your answer papers as follows:

Leave a margin of one inch at the left edge of the paper. If you are not using margin ruled paper, it may be well to rule a vertical margin line. Number your questions consecutively in this margin. Leave two lines blank after each answer. Write on one side of the paper only. Number each page at the top right hand corner. Arrange the heading of the first page of each examination in the following manner.

- | | |
|---------------------------------|---------------------|
| 1. Name | 4. Subject |
| 2. Address | 5. Exam. No. |
| 3. Class Letter and Number..... | 6. Percentage |
| | 7. Instructor |
- (Student must fill in lines 1, 2, 3, 4, 5.) (Instructor must fill in lines 6 and 7.)

Incidentally, the answering of these questions is intended to develop the habit of referring to the Act. We may as well rid our minds, at the outset, of the idea that a statute, like a story book, can be read from page one to the end, in the hope of getting a logical development of the subject. Our law makers, for some reason, do not compile statutes in this way. This is our reason for giving you a series of references. Some of them (S. 17, for example) refer to the Act, others are marked G. K. (General Knowledge) and refer to points already covered in our lesson, or which we may reasonably expect the student to have in hand.

REFERENCES

To be used in answering questions that follow.

Question		Question	
1	S. 56, 74b.	8	G. K.
2	S. 17, 165, 176.	9	S. 176.
3	S. 1.	10	S. 35.
4	S. 17.	11	S. 35, 36.
5	G. K. & S. 25.	12	S. 17, 176.
6	G. K.	13	S. 27.
7	S. 165.	14	S. 27.

1. What is the difference between a paper which is assignable and one which is negotiable?
2. What papers are fully negotiable?
3. What is the Act which in Canada gives the law concerning these papers?

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4. Give, in the exact terms of the Act, the definition of a Bill of Exchange.
5. (a) Show the form of an Inland Bill and also of a Foreign Bill.
(b) By what name does the Act designate each of the three parties to your Inland Bill?
6. By what more familiar term is an Inland Bill generally known?
7. Define, in terms of the Act, a Cheque.
8. (a) Show the form of a Cheque.
(b) By what name does the Act designate each of the three parties to your cheque?
9. Define, in terms of the Act, a Promissory Note.
10. A Bill of Exchange is originally an order to pay and a Note a promise to pay. At what time does the bill become a promise to pay?
11. Define, in terms of the Act, an acceptance. Give the essentials of an acceptance. Illustrate the acceptance to bills of question 5.
12. Judging from your definitions of a Bill and of a Note, what would you say were the peculiar requisites of a negotiable contract?
13. In a certain bill the head line, usually containing the place where drawn and date, is entirely omitted. Is the bill damaged by the omission? Give reasons.
14. Is it necessary in a bill to specify a place of payment?

Negotiable Papers

LESSON II.

Place Chart 1 before you. We mentioned in Lesson 1 that we would be continually referring to these Charts. Let us consider the definition of a Bill and of a Note, particularly noticing the words in italics which bring out the special features of these contracts.

A Bill or Note must be unconditional. There must be no "ifs" about the order or promise. Other contracts may make fulfilment dependent on conditions, but not so with negotiable contracts.

If the paper is not payable on demand, the time must be fixed or determinable. For instance, we can draw a paper payable on November 30, or at one month from October 30.

The paper must call for the payment of money and nothing else. There are good contracts which call for the delivery of different commodities; such as, wheat, but they are not of this class of negotiable contracts.

The sum of money must be a sum certain. In the Bill, we can see at a glance that it is \$300. In the Note, it is \$300 plus interest. The Act considers that both come within the idea of a sum certain, which suggests that handling negotiable paper brings up the necessity of being able to compute interest and discount. This is something that a study of Arithmetic teaches you. If you are rusty on that part of your arithmetic, we advise a thorough review of it.

The paper must be payable to Bearer or to Order. The Bearer paper can be negotiated by simply handing it over. The Order paper must be endorsed and then handed over.

If we stroke out the word Bearer or the word Order and substitute the word Only, for example, we kill the negotiability of the paper. Now, this does not mean that the paper may not be transferred. It means that the paper is taken out of the special class of negotiable papers and put into the general class of assignable papers. It may be assigned, but the one buying it, would get the paper subject to all its defects.

A simple form of assignment is as follows:—

For value received,

I hereby assign to John Doe, all my right, title and interest
in the within paper.

R. ROE

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QUIZ QUESTIONS

REFERENCES

Question

- 1 S. 43.
2 S. 42, 44, 45, 46.
3 G. K.

Question

- 4 S. 28 (a).
5 to 12 G. K.

- What are the legal holidays and non-juridical days in Canada?
- Find the date of maturity of the following notes. Find also the number of days between date and due date.

Date of Note.	Time	Date of Note.	Time.
1. Jan. 4, 1933.....	30 days	8. Dec. 29, 1933.....	2 mos.
2. Jan. 4, 1933.....	1 mo.	9. Dec. 30, 1933.....	2 mos.
3. Feb. 9, 1933.....	30 days	10. Dec. 31, 1933.....	2 mos.
4. Feb. 9, 1933.....	1 mo.	11. July 31, 1933.....	1 mo.
5. Feb. 9, 1932.....	30 days	12. July 31, 1933.....	2 mos.
6. Feb. 9, 1932.....	1 mo.	13. Dec. 1, 1933.....	1 mo.
7. Dec. 28, 1933.....	60 days	14. Nov. 29, 1933.....	1 mo.

- What is the legal rate of interest in Canada?
- A note is made as follows:

\$200 ⁰⁰ / ₁₀₀	Toronto, Feb. 5, 1933.
Thirty days after date I promise to pay to	
J. BROWN.....	or order
Two Hundred.....	^{xx} / ₁₀₀ Dollars
Value received with interest at seven per cent. per annum	
H. THOMPSON.	

From the standpoint of a "sum certain," is this a valid note? Quote your authority.

5. When will the above note fall due, and what sum would discharge it on its due date? Give the figure and explain how you get it.

6. Suppose this note were not settled until 30 days after its due date, how would you compute the amount necessary to discharge it? Give the figure.

7. Would it have made any difference in your calculation for question 6 if the note had read: "With interest at seven per cent. per annum until paid?" Explain.

8. What interest clause would make the note bear interest at 7 per cent. per annum until it is discharged, whether that was at its date of maturity or later?

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9. What interest clause would make it bear interest at 7 per cent. until maturity and 10 per cent. after maturity, until it was paid?

10. Suppose the interest clause simply read "with interest." Has it any effect, if so what?

11. Suppose it is desired to make the note bear interest at 4 per cent. until maturity and 5 per cent. after maturity until paid, what is the simplest interest clause that would effect this?

12. A note is made as follows:

\$200	Toronto, Ont., Feb. 6, 1933.
<i>One year after date, without grace, I promise to pay</i>	
JOHN ANDERSON.....or order....	
<i>Two Hundred.....Dollars</i>	
<i>Value received with interest at one per cent. per month.</i>	
T. TOBIN.	

What interest is collectible on this note at the end of the year, and why? Quote authority.

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EXAMINATION QUESTIONS

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Lesson 2

Questions	References	Questions	References
1	S. 17—2.	8	S. 21, 22, 60.
2	S. 17—3, 3 (a).	9	S. 22.
3	S. 18—1.	10	S. 21—1.
4	S. 24—b.	11	S. 23.
5	S. 18, 19, 20.	12	S. 24.
6	G. K.	13	S. 42.
7	(a) S. 18—2. (b) S. 19—1, 2, 3.		

1. A paper reads "Ninety days after date I promise to pay John Smith, Thirty bushels of potatoes," etc. Is this paper negotiable? Give reasons.

2. (a) A bill reads: "Ninety days after date pay R. Brown out of the Baptist Church Building Fund \$5,000," etc. Is this a good bill. Reasons. (b) Would it make any difference if it had read: "Ninety days after date pay to John Brown \$5,000, and charge same to the Baptist Church Building Fund," etc.? Explain.

3. Is this a good bill?—"Three days after the arrival of Steamer Republic at Naples, pay to R. Dunn, a passenger, one thousand francs," etc. Explain.

4. A young man gives a money-lender a note as follows: "Thirty days after the death of my father I promise," etc. Is this a good note? Explain.

5. (a) Name and define the three parties to a Draft.

(b) Name and define the two parties to a Note.

6. Describe the course of a draft from one party to another.

7. In how many ways may a Bill be drawn?

(a) With respect to the drawee.

(b) With respect to the payee.

8. What is the difference between a bill payable to John Smith "or bearer," a bill payable to John Smith "or order", and a bill payable "To the order of John Smith"?

9. Suppose you take the bill payable to John Smith "or order" and draw a pen through the words "or order." How will the bill be payable? Explain.

10. How would you make a bill non-negotiable? If you made it non-negotiable, would it also be non-transferable?

11. When is a bill payable on demand?

12. In how many ways may bills payable at a determinable future time be expressed?

13. What is the difference between the bills mentioned in questions 11 and 12 when it comes to a matter of computing the due date?

Negotiable Papers

LESSON III.

Place Chart 2 before you. The first requisite to the validity of any contract is that the parties to the contract must be competent. As a good working rule, for ordinary business purposes, we may say that this means that the parties must be at least twenty-one years of age and of sound mind.

The Bills of Exchange Act tells us that competency in the case of a Bill, Note, or Cheque, is just what it is in the case of an ordinary contract.

Mutual consent never bothers us in discussing these negotiable contracts. The man who signs a Note and gives it to me is supposed to do so without force or fear or fraud being used to urge him to do so. He must act freely and of his own will. In giving the Note to me, my consent to the transaction is presumed when I take the Note.

The matter of a lawful object bothers us even less. To contract to pay a sum certain in money is always a lawful thing to do.

The subject of Consideration may need closer investigation. Whenever we see the word "value" used in the Act, it means Valuable Consideration. Thus, in Chart 1, the Bill and the Note both contain the words "value received." This is just to emphasize the point that in these Negotiable Contracts, as in ordinary contracts, the one who engages or contracts to do something, does so because of some consideration or return which he has received or expects to receive.

The Cheque does not contain these words, and this brings up the point that the words "value received" or similar words are not a necessity to any of these papers. In other words, consideration is generally presumed.

There is only one case in which the Act makes it absolutely necessary that the consideration be specifically mentioned. A note given for the payment of a patent right must have plainly printed or written across the face the words, "Given for a Patent Right"—reminiscent of the days when the sale of these patent rights was a familiar form of swindle.

Since value is ordinarily presumed to have been given, it follows that, even where a man has signed a note or bill by way of accommodating a friend, he can not avoid his liability by proving that he received no value for doing so.

All this may help to explain why it is that when the Act uses the term "Holder for Value," it does not necessarily mean a holder who has himself given value, but rather a holder who can show that value has at any time been given for the bill.

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In as much as the whole idea of what is meant by negotiability depends upon a clear understanding of what is meant by a Holder in due Course, we advise that the definition of the term as given in section 56-1 (a), (b), of the Act, be learned word for word. With this in hand, section 74(b) of the Act may be similarly learned, and with these two items in hand, one has a clear understanding of what is meant when we say that a Bill or Note is a negotiable paper.

The person who has to sign any paper, may sign personally, or he may give an agent power to sign for him. An agent is sometimes called an Attorney, and therefore the document by which an agent is given power to act for a principal, is called a Power of Attorney.

A Power of Attorney which authorizes an agent to sign for a principal, does not, as a general rule, specify some particular form of signature. The agent is always on the safe side if he signs his principal's name first. This is what he is given power to do, and even if he adds nothing to such signature, he is keeping himself out of personal difficulties.

The agent may reverse the order of the names and sign his own first, but he must be very careful that he follows the instruction in section 52 of the Act, or he will make himself personally liable.

QUIZ QUESTIONS

REFERENCES

Questions

1	.....	S. 28 (b).
2	.....	S. 28 (c).
3	.....	S. 28 (d).
4	.....	S. 28—2.
5	.....	S. 30.
6	.....	S. 31, 32.

Questions

7	.....	S. 35—2.
8	.....	S. 38.
9	.....	S. 36, 38—3.
10	.....	S. 39.
11	.....	G. K.
12	.....	S. 48.

- 1, 2. Illustrate two forms of an instalment note
3. A Bill of Exchange reads as follows:

At sight of this first of Exchange (second and third of the same tenor and date unpaid) pay to

J. DUNN.....or order

One Thousand.....Dollars

according to the rate of exchange on due date of this bill, value received and charge to account of

To. H. White & Co.,
Liverpool, Eng.

BROWN & CO.

Is this a valid bill? Quote your authority.

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4. Is the following cheque a good one? and if so what is the amount payable? Why?

\$200 ⁰⁰ / ₁₀₀	Toronto, Ont., Feb. 8, 1933.
THE BANK OF MONTREAL	
Pay J. SHIELDS.....or order	
One Hundred.....Dollars	
H. SIMPSON.	

5. Is the following a valid note? If so, how would you find its due date? Give your authority.

<i>Thirty days after date, I promise to pay</i>	
JOHN THEDFONG.....or order	
One Hundred.....Dollars	
H. CAMPBELL.	

6.

Toronto, Ont., Feb. 8, 1933.	
BANK OF MONTREAL	
Pay to.....	
..... Dollars	
D. RAMSDEN.	

The above paper is signed by D. Ramsden, as illustrated, and delivered to you by him. What rights, if any, accrue to you?

7.

\$200 ⁰⁰ / ₁₀₀	Toronto, Ont., Feb. 8, 1933.
<i>One month after date pay to the order of the</i>	
BANK OF MONTREAL	
Two Hundred.....Dollars	
H. SIMPSON.	
To J. Tomson.	

The drawee's name in the above bill should be spelled "J. Thompson." Show three ways in which he may accept?

8. Distinguish between a general and a qualified acceptance.

9.

\$500	Toronto, Feb. 8, 1933.
<i>Ninety days after sight pay to</i>	
R. HERALD.....or order	
Five Hundred.....Dollars	
R. BETHUNE.	
To A. Adams.	

Show the form of general acceptance for the above draft. Show also three forms in which a qualified acceptance might be given for it, and explain effect of each.

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10. I owe W. Scott Fifty Dollars. With the intention of paying him, I write out a cheque for \$50 in his favor. Scott comes to my office, and, seeing the cheque lying on my desk, picks it up and takes it away with him. I am out at the time. Has Scott any right to do this? Explain.

11. It is one of the four general requisites to the validity of any contract that the parties should be competent. What do you understand by competent persons?

12. A draws a bill on B in favor of C. A is a minor. B accepts the paper on presentation to him. At maturity B refuses to pay on the ground of A's minority. Can C enforce payment? Give your authority.

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EXAMINATION QUESTIONS

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Lesson 3

Question

- 1 (a) S. 49.
..... (b) S. 133.
- 2 S. 49 (b).
- 3 S. 51.
- 4 S. 4, 52.
- 5 G. K., S. 53.
- 6 S. 2 (d), 2 (g), 54, 56.
- 7 S. 54.

Question

- 8 S. 2, 56.
- 9 S. 139.
- 10 S. 55.
- 11 G. K.
- 12 S. 60—1.
- 13 S. 60—2, 3.
- 14 S. 62.

1.

\$100.00	Toronto, Feb. 9, 1933.
<i>Two months after date I promise to pay</i>	
J. Kinsley.....	.....or order
One Hundred.....	.....Dollars
ADAM JONES.	

In the above note Jones' name is forged by Kinsley. After thus drawing up the note and forging Jones' signature, Kinsley transfers it to J. D. White for value, not giving White any notice of the forgery. White, in turn, sells the note to R. Brown. The note, therefore, has on the back of it the following endorsements:

J. Kinsley
J. D. White

At maturity Brown presents the note to Jones and demands payment.

- (a) Can Jones be compelled to pay? Give reasons.
- (b) Can White or Kinsley be compelled to pay? Give reasons.

2. A gives B his cheque on the Bank of Montreal payable to "B or order," C obtains possession of the cheque, wrongfully, forges B's endorsement to the cheque and cashes it. This fact is made known to A. Has he any duty to perform, and why?

3. What is a signature by procuration?

4. R. Bennett has authority under a Power of Attorney, duly executed, to sign for T. Tanton. Discuss the following signatures, supposed to have been made by Bennett, acting under his authority:

- | | |
|---|---|
| <ol style="list-style-type: none"> (a) R. Bennett. (b) T. Tanton. (c) R. Bennett,
Agent. (d) R. Bennett,
Agent for T. Tanton. | <ol style="list-style-type: none"> (e) T. Tanton,
per R. Bennett. (f) T. Tanton,
per pro. R. Bennett. (g) R. Bennett.
Signed for and on behalf of T. Tanton. |
|---|---|

SHAW SCHOOLS LIMITED

5. Sufficient consideration is one of the general requisites to any contract.

What is meant by "consideration" in this connection?
What may constitute valuable consideration for a bill?

6. Define in the exact terms of the Act, the following terms as used in the Act:

- | | |
|-------------|---------------------------|
| (a) Bearer. | (c) Holder for value. |
| (b) Holder. | (d) Holder in due course. |

7. B owes C \$50. In order to pay C, B requests A to draw a bill on B for \$50 in favor of C. The bill is drawn and delivered to C, who gets B's acceptance. Is C a "holder for value?" Could he sue B on the bill? Could he sue A on the bill?

8. A draws a cheque on the Bank of Montreal in favor of B or bearer. B loses the cheque. C finds the paper. Is C the "bearer" or the "holder?" Suppose that C, in the ordinary course of business and without notice of how he came into possession of the cheque, transfers it to D in payment of goods bought. What would you call D, giving him the benefit of his rank?

9. Suppose in the last question that C, after finding the paper, cashed it at the bank. Does the bank get a valid discharge for the bill?

10. Define an accommodation party to a bill.

11. F. Denton is to accommodate R. Haney with his name on a promissory note. Which of the two notes here illustrated would you advise Denton to select, and why?

\$100	Toronto, Feb. 10, 1933.
<i>One month after date I promise to pay</i>	
F. Denton.....	or order
One Hundred.....	Dollars
R. HANEY.	

\$100	Toronto, Feb. 10, 1933.
<i>One month after date I promise to pay</i>	
R. Haney.....	or order
One Hundred.....	Dollars
F. DENTON.	

12. What is meant by negotiating a bill?

13. What distinction is there in negotiation between a bill payable to bearer and one payable to order?

14. What are the requisites of a valid endorsement?

Negotiable Papers

LESSON IV.

Place Chart 1 before you. Refer particularly to the table giving the Comparative Order of Liability.

The man who signs a Note as Maker, or the man who signs a Bill as Acceptor, is the man to whom the holder will first apply for payment. The Maker of a Note or the Acceptor of a Bill is primarily liable.

The others who are liable on either paper are liable only under certain conditions. They are marked in the Chart as being secondarily liable.

What are the conditions under which these secondarily liable parties are liable? They may be summed up as follows:—

1. That the holder did his duty of presenting for acceptance and for payment.
2. That the holder did his duty of properly notifying these secondarily liable parties of dishonor by the party primarily liable.

In following the course of the bill, we indicated that Brown would issue the paper to Doe, and that Doe would present to Roe for acceptance. It is a good policy for the Payee to follow in every case. It fixes the liability of the Drawee by getting his acceptance, or it determines at once that the paper is dishonored, if the Drawee refuses to accept.

As a matter of absolute law, however, the Payee is not obliged, in every case, to present for acceptance. Section 75 of the Act tells us that there are only three classes of Bills that the holder must present. Section 78 gives the rules for presentment, and the Payee who would avoid trouble, must know these rules thoroughly.

At maturity, a Bill or a Note is expected to be paid, but again we note that the law imposes upon the holder the duty of presenting it to the one primarily liable. The rules for properly presenting for payment, are given in sections 85 to 88, and must be thoroughly learned.

Generally speaking, it is worth noting that where the Act uses the word, "present," it has the meaning that plain English gives it. It means that the holder must be up and doing, not waiting for others to come to him.

If the paper is not accepted, or is not paid, it is said to be dishonored. This imposes upon the holder the duty of notifying the parties secondarily liable. Section 96 is quite clear on this, and sections 97 to 99 give the rules by which notice is properly given.

Generally speaking, it may be said that the holder can give these notices himself. In three classes of cases, the holder must get a

SHAW SCHOOLS LIMITED

Notary Public to do the work for him. Sections 112, 114, and 117 give these cases.

Handing a dishonored bill to a Notary Public to have this work done, is part of the process of Protesting the bill. The Notary makes sure by personal presentation, that the bill or note is dishonored. Then he fills out a protest form (see forms at end of Act). Next, he sends notices (see forms at end of Act) to the parties concerned.

Sometimes, if there is hope that the bill or note may be honored the next day, the holder may ask the Notary to just "Note" the paper for the time being. This means making the necessary notes or memoranda that will be required for the protest document. If the paper is honored the next day, the matter goes no farther. If not, the notes will be extended into the complete document of protest. Noting an unpaid paper really gives the party who has to pay, an extra day's grace.

QUIZ QUESTIONS

REFERENCES

Questions.		Questions	
1	S. 64.	7	S. 80—1.
2	S. 67—5.	8	S. 83, 84.
3	S. 70—1.	9	S. 77—2.
4	S. 70—2	10	S. 85—1, 2.
5	S. 75.	11	S. 92—2.
6	S. 79—2.	12	S. 93, 183.

1. John Robertson receives a cheque intended for him, but in which his name is spelled John Robinson. How will he endorse when he cashes it at the bank? Quote your authority.

2. In what case has a holder right to change one endorsement to another? Why?

3. You are asked to purchase from the holder an over-due note. What kind of title would you receive if you bought the note? Give reasons.

4. When is a demand bill due, and when would it be considered overdue?

5.

\$200	Toronto, Feb. 11, 1933.
<i>Three months after date pay to</i>	
<i>James Fairbairn.....</i>	<i>or order</i>
<i>Two Hundred.....</i>	<i>Dollars</i>
<i>Value received and charge to the account of</i>	
<i>To R. D. Boyd.</i>	W. D. RAMEY.

Would it be necessary for Fairbairn to present this bill to Boyd for acceptance before presenting it for payment? Reasons.

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6. You receive from A a bill drawn on B at "thirty days sight." Meeting B on the street you casually remark that you have such a bill and will be down to get his acceptance. B tells you that you can save yourself the trouble; that he will not accept the bill if you do present it. What is your position? Explain.

7. How much time has the drawee in which to accept?

8. What is the position of the holder if the drawee offers him a qualified acceptance?

9. Why is it so necessary for the holder to present for acceptance and to learn whether a bill is to be honored or dishonored?

10. What is the holder's duty on the maturity of a bill? Why?

11. You hold A's note due to-day. You meet A on the street and tell him you expect to call at his office, where the note is payable, and get payment. A tells you that he does not intend to pay, and you do not need to come. What is your position?

12. Is the acceptor of a draft or the maker of a note relieved of liability by failure to present? Explain

NEGOTIABLE PAPERS
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Lesson 4

REFERENCES

Questions		Questions	
1	S. 67, 68, G. K.	9	S. 92 (d).
2	S. 74.	10	S. 95.
3	S. 75.	11	S. 96, 97, 98, 99.
4	S. 78.	12	S. 99 (a).
5	S. 79.	13	(a) S. 133 (a).
6	S. 81.		(b) S. 97 (b).
7	S. 85—3, 86, 87, 88.		(c) S. 133 (a).
8	S. 92 (c).		(d) S. 104.

1. John Doe holds a paper payable to him or Order. Illustrate the forms of the following endorsements, explaining in each case the effect on the endorser and the effect on the bill: (a) Blank, (b) Special or Full, (c) Qualified, (d) Restrictive, (e) of Identification, (f) of Receipt of Partial Payment, (g) Waiving Protest.

2. What are the rights and powers of the holder of a bill?

3. What bills must be presented for acceptance?

4. Give the rules for presentment for acceptance.

5. When is presentment for acceptance excused?

6. When is a bill dishonored by non-acceptance?

7. Give rules for presentment for payment.

8. A draws a bill on B in favor of C. B does not owe A anything. A simply expects that, as a matter of accommodation, B will accept the bill and then at maturity A will provide funds to meet it. B does accept it. Will it be necessary for C to present this bill at maturity to B in order to hold A liable? Explain.

9. In order to accommodate B, A makes out a note in B's favor with A's name as maker. B then sells this note to the bank and is required to endorse the paper. Will it be necessary for the bank to present the note to A at maturity in order to hold B liable? Explain.

10. When is a bill dishonored by non-payment?

11. As the holder of a bill, you find it dishonored. What is your duty, and by what rules are you guided in performing that duty? Give your authority.

12. Attached to the left end of a draft you will often find a slip with these words on it:

NO PROTEST

Take this off before presenting.

If acceptance be refused please return at once and report answer given.

As the holder of such a draft, are you wise in following this direction? Why?

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13.

\$500.00	Toronto, Ont., Feb. 11, 1933.
Three months after date I promise to pay	
Jas. White.....	or Order
Five Hundred.....	Dollars
Value received.	H. BAKER.

On the back of the above note are the following endorsements.:

{ Jas. White. }
 { C. Brown. }
 { A. Black. }
 { R. Green. }

You are the holder of the note at maturity and on due presentment Baker dishonors it.

(a) Suppose you duly notify all endorsers and then proceed to collect. Are you bound to approach White first? Could you, if you deemed it wise, proceed first against Green? Give reasons.

(b) Suppose Black gets the notice of dishonor from you personally, is that necessarily an assurance to him that you have notified the others? Would it be wise for him to see, personally, that the others get notice of dishonor? Would he have a right to give such notice? If he has, whom should he notify and why?

(c) Suppose Brown gets due notice from you and is compelled to pay you the amount of the note. Has he any right to proceed in turn against any of the others? If so, what others? Why?

(d) Suppose that by receipt for registered letter and by your letter copying book you can prove mailing the notice to Brown, but the Post-office fails to deliver the notice, is your position affected? Give authority.

Negotiable Papers

LESSON V.

Place Charts 2 and 3 before you.

Chart 2 impressed the fact that in dealing with Bills, Notes, and Cheques, we are dealing with a form of contract.

Any contract has the effect of imposing a binding obligation on the parties to it. It follows that the man who draws, accepts, or endorses a Bill, or the man who makes, or endorses a Note, has entered into a legal relation with some other person or persons. He has given to this other person the right to demand that he do a certain thing or pay a penalty for failure to do it. It would save a lot of trouble in the business world if people understood that simple fact. Too many people have the childish idea that a contract relationship is one that can be dissolved at the whim of one of the parties.

It is very important, in the first place, to get the full import of sections 128, 130, 133, and 185. No man should put his signature on a negotiable paper without fully understanding that he is guaranteeing certain things about the paper, and binding himself to pay money.

We may now look at Chart 3. The material down the left side of the sheet shows us that we speak of a contract being discharged when the relations it created have ceased to exist. The simplest way of bringing this about is for each party to the contract to do what he contracted to do.

If either party fails to do what he promised to do, we have a breach of contract, and the injured party has a right to take action against the other. This usually takes the form of an action for damages.

Let us now read down the right side of the Chart. Sections 139, 141, 142 and 143 tell us the different ways in which a negotiable contract is discharged. The obvious way is by payment, but it is important to note that it must be "payment in due course." This is another item that we recommend the student to learn word for word.

"Payment in due course means payment made at or after the maturity of the bill, to the holder thereof, in good faith and without notice that his title to the bill is defective."
(Section 139-2)

It is very important to note that the holder is the person described in section 2 (h) of the Act, and not any Tom, Dick, or Harry, who may present the paper and say that he is the holder.

Of course, there are other methods of discharge discussed in the other sections referred to, but this is the method of discharge in most cases.

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Payment ordinarily involves the handing over of money. In the case of a Cheque, however, the Drawer may so arrange matters that the bank on which the Cheque is drawn, may not pay the cash over the counter, but must pay it into the holder's account in some bank. The Drawer indicates his desire to his bank by "crossing" the cheque. The forms of crossing are dealt with in section 168 of the Act.

The simplest crossing is made by putting two parallel lines across the face of the Cheque. To the Teller who sees these lines, they say, "Do not pay this in cash. Ask the holder of the Cheque where he wants the amount deposited."

If, instead of the lines across the face of the Cheque, there appears the name of a bank, the amount must not only be deposited, but deposited in that particular bank.

This scheme of crossing Cheques originated in England where the bank paying a Cheque gets a discharge, so long as it pays in good faith to any one who presents the Cheque. In Canada, where the Act requires payment in all cases to be made to the holder, the use of the crossing is not so apparent, and the plan is seldom, if ever, used.

Again, we may note that the holder of a Cheque, even if it is not crossed, may not wish to take the cash which the bank is ready to pay him. He may ask to have the Cheque "marked" or "certified." The ledger-keeper will see that the account of the Drawer is good for the amount of the Cheque. He will then put the bank's certification stamp on the Cheque, with his own initials, and hand the Cheque back to the holder, who now knows that the Cheque is good for the amount.

Sometimes, the Drawer of the Cheque has his Cheque marked before sending it to the Payee.

Resuming the subject of discharge, we note that if the Bill or Note is not paid, the holder may become the plaintiff in an action against one or more of the parties to the paper. This makes these other parties defendants in the action and, as such, they have a right to enter a defence against the action. The defendant may plead that he is not a competent person (for instance, that he is not 21 years of age); that his signature was forged; that the paper on which it is sought to recover, was an incomplete document stolen from his desk, completed by the thief, and negotiated; that the bill is not the one he had signed, having been altered after his signature was placed; that the contract had really been discharged. These are known as Real Defences, and are good against any holder.

Then there are Personal Defences. The defendant may plead that fraud, or force, or undue influence was used to secure his signature; that the note or bill was given for an illegal consideration, such as the doing of something forbidden by statute; that there was a breach of faith in negotiating the paper, as where a note was to be used for a special purpose and was not so used. These may succeed against any holder except a holder in due course.

There are other Personal Defences. The defendant may claim that he got no consideration; that the plaintiff released him from his ob-

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ligation before maturity; that he paid the paper before maturity; that he has a contra account. These may succeed against the party with whom the defendant originally dealt, but would be of no weight against any other holder to whom the paper was negotiated.

The great line of defence that those secondarily liable may plead, is that the holder did not perform his duty of properly presenting the paper, or of notifying them of dishonor.

QUIZ QUESTIONS

REFERENCES

Question

- | | | |
|---|-------|------------------|
| 1 | ..... | S. 127. |
| 2 | ..... | S. 134. |
| 3 | ..... | S. 137, 138. |
| 4 | ..... | G. K. |
| 5 | ..... | S. 139—2, 2 (h). |
| 6 | ..... | S. 146. |

Question

- | | | |
|----|-------|-------------|
| 7 | ..... | G. K. |
| 8 | ..... | S. 156. |
| 9 | ..... | S. 166 (a). |
| 10 | ..... | G. K. |
| 11 | ..... | S. 167. |
| 12 | ..... | G. K. |

1. At what time does the drawee become liable on a bill?
2. What are the liquidated damages on a dishonored bill?
3. Who is a "transferor by delivery"? What is his warranty?
4. What is legal tender money in Canada? If you have a note of \$100 due to-day, what money could you offer in payment in order to be absolutely certain of having legally tendered payment?
5. A makes a note payable to B or bearer. On the day of maturity B loses the note. C finds the note and presents it to A for payment. A pays C the amount of the note? Is the note discharged so far as A is concerned? Reasons.
6. What are material alterations?
7. The following cheque, in the form indicated, was given by B. H. Brown to G. Ramer:

\$ 100 ⁰⁰ / ₁₀₀	Toronto, Ont., Feb. 15, 1933.
THE BANK OF MONTREAL	
Pay to G. RAMER.....or order	
One Hundred..... ^{xx} / ₁₀₀ Dollars	
B. H. BROWN.	

Before cashing it Ramer changed it as follows:

\$8100 ⁰⁰ / ₁₀₀	Toronto, Ont., Feb. 15, 1933.
THE BANK OF MONTREAL	
Pay to G. RAMER.....or order	
Eighty One Hundred..... ^{xx} / ₁₀₀ Dollars	
B. H. BROWN.	

The bank paid Ramer \$8,100. Who loses the \$8,000? and why?

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8. A makes a note in favor of B, which B loses before maturity. How is B going to perform his duty of presenting the note for payment at maturity?

9. A has an account at a certain bank. On Feb. 15th he has \$1,000 to his credit. On that date he gives B a cheque for \$400. B does not present this cheque for payment, and on Feb. 20th the bank fails, paying depositors nothing. B finds payment of the cheque he holds also refused. B has nothing but his own negligence to blame for failure to present before the 20th. Who suffers the loss of the \$400, and why?

10. What is meant by "marking" or "certifying" a cheque? How is it done and who does it? Under what circumstances is a cheque marked?

11. Under what circumstances would a bank be justified in refusing to pay a cheque drawn upon it?

12. A is a business man; so is B. A gives B a cheque and crosses it. What purpose is served in thus crossing the cheque.

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EXAMINATION QUESTIONS

NEGOTIABLE PAPERS

Lesson 5

REFERENCES

Question		Question	
1	Forms B. to F. at end of Act.	7	(a) S. 130. (b) S. 128, 129. (c) S. 133.
2	S. 114—2.	8	S. 139—1, 139—3, 141, 142, 143.
3	S. 112, 114, 152, 117.	9	S. 139—2, 2 (h.), 49.
4	G. K. Form A at end of Act.	10	S. 143—2, 3.
5	S. 121, 119 and forms at end of Act, also S. 13.	11	S. 145.
6	S. 126, 11, 12.	12	S. 168.
		13	G. K.

1. What do you understand by "Protest"? by "Notice of Protest"?

2. Generally speaking, is protest a compulsory thing or an optional thing? Authority,

3. In what cases is protest an absolutely essential thing?

4. What is the difference between "Noting" and "Protesting"?

5. Where, when, and through whom is protest made?

6. When is notice of protest properly served? In case of action on a dishonored bill, what important fact does Protest prove?

7. Give in full the engagement and guarantee of—

(a) The drawer of a bill.

(b) The acceptor of a bill.

(c) The endorser of a bill.

8. Give five ways in which a bill may be discharged.

9. Suppose, in Quiz Question 5, that the note had been made to B or order, and that C had forged the endorsement of B before presenting it to A. Would the note be discharged if A had paid C? Reasons.

10. A makes a note in favor of B. Before maturity it passes through several hands. On it are the following endorsements in the order given: B, C, D, E. If F, as the holder of the note, deliberately draws his pen through the endorsement of C, how does he affect his position toward A and B? How does he affect his position toward D and E? Give reasons.

11. A makes a note in favor of B for \$100. He takes all reasonable precautions in drawing it, but B, by acids and clever forgery, raises the note to \$2,100. The alteration is not apparent to ordinary inspection. B has, therefore, no difficulty in selling it to C, who buys in good faith for value. C in turn sells to D, who is the holder at maturity. On the back of the note are, of course, the endorsements

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of B and C. At maturity D presents the note to A, demanding payment. A refuses to pay. Has D any rights against A? If so what are they? Give authority. D, finding trouble with A, promptly notifies B and C. Has he any rights against them, and if so, what are they?

12. Illustrate four forms of a general crossing and two forms of a special crossing.

13. What is the significance of a crossing placed on a cheque.

Negotiable Papers

LESSON VI.

Place Chart 1 before you.

Refer particularly to the illustration of Promissory Note. As it stands, it has one maker, Richard Roe, and is spoken of as an Individual Note.

If below the signature of Richard Roe, we had the names of one or more other makers, and the body of the note still read the same, we would have a Joint and Several Note. That is, in any action to recover the amount of the note, the makers could be sued jointly, or each one could be sued severally for the whole amount of the note. A Joint and Several Note sometimes reads, "We jointly and severally promise to pay."

If we had more than one maker but the note read, "We jointly promise to pay," it would mean that in any action, the makers must be sued jointly. If a judgment is given against them, they must together make up the amount, and the holder of the note is not concerned with the proportion that each contributes. They can fight that out among themselves. One man can not come forward and say he is ready to pay his share. Together they must produce the whole amount. The Province of Quebec offers the only exception to this rule. One maker can clear himself by paying his share.

The illustrated note on Chart 1 may serve as a basis for another explanation. Suppose that John Doe is anxious to raise some money at his bank, on November 25. He might do this by discounting the note and having the proceeds placed to his credit. Or, he might give the bank his own note for the amount he wanted, (say, \$100), and along with his own note, he could give the bank this note of Richard Roe's as collateral security, with the understanding that, if John Doe did not pay his note at maturity, the bank could use Richard Roe's note on which to realize the amount due. Stock certificates and bonds are also thus put up as collateral.

The Act provides, in this last mentioned case, that John Doe's note given to the bank, may, without damaging its negotiability, contain a reference to the fact that collateral is being deposited, with power to sell if the note is not paid at maturity.

Lien Note.

\$100.00

Lynn Valley, June 10, 1933.

Three months after date, I promise to pay Oliver Austin, or order, One Hundred Dollars, for value received.

The title of the property in the Bell Organ, No. 4326, for which this note is given, is not to pass, but to remain in the said Oliver Austin until this note or any renewal thereof is fully paid.

W. A. SANDERSON.

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Such note is given for an article bought, and the seller of the article retains the title to the article till the note is paid. Of course, the purchaser gets the use of the article as soon as the note is signed. There has been much dispute as to whether or not the Lien Note is a negotiable paper. The weight of opinion seems to favor classifying such notes as non-negotiable.

The bill on Chart 1 may serve as the basis for another illustration. We have seen that in the ordinary course of events, the bill is issued by the Drawer to the Payee, and the Payee presents to the Drawee for acceptance. We shall suppose that the Drawee refuses to accept. This would open the way to an Acceptance for Honor.

Before such Acceptance for Honor is possible, the bill must be protested for the dishonor by non-acceptance. After this protest, some person not already liable on the bill, may approach the Payee and say that he is willing to accept the bill for the honor of the Drawer, or of an endorser. If the Payee consents, the Acceptance for Honor may be placed on the bill as follows:—

Accepted

November 27, 19.....

for the honor of Henry Brown.

Hugh Green.

At the maturity of the bill, it would be necessary for the holder to present it to Richard Roe for payment. If Roe refuses to pay, the bill must be protested for such dishonor. After this, it could be presented to Green for payment.

If Green pays, he has a right to proceed against Brown (the one for whose honor he accepted) for the recovery of the amount.

Such payment by Green is spoken of as a Payment for Honor, but it is not necessary that one should have accepted for honor before paying for honor. Thus, for example, the note in Chart 1, may be dishonored by non-payment at maturity. The holder may protest the note for such dishonor. Following this, we shall say that J. Black approaches the holder and says he is willing to pay the bill for the honor of some one liable on the bill, let us say for the honor of the endorser, James Smith.

If such payment is accepted by the holder, the Payer for Honor gets the note and may proceed to collect from Smith, Doe, or Roe. Dunn is released by such payment.

Sometimes, the name of a person who will accept for honor or pay for honor, is placed on the bill. In such case, the person so named, is called "The Referee in Case of Need," and is so described on the bill.

Of course, a Referee would not be named unless previous arrangement had been made with him. Thus, for example, an English firm drawing on a Canadian customer for goods bought, may name some other person in Canada as a Referee in Case of Need. They are simply making quite sure that the holder will get acceptance and payment, because, as a last resort, the holder may appeal to the Referee who will naturally be re-imbursed by the drawer.

QUIZ QUESTIONS

REFERENCES

Questions

- 1 G. K.
- 2 G. K.
- 3 G. K.
- 4 S. 169—1, 2.
- 5 S. 179—2.
- 6 S. 15.

Questions

- 7 G. K.
- 8 S. 33.
- 9 S. 147.
- 10 S. 151.
- 11 S. 153—4.
- 12 S. 155, 153—3.

1. A is a business man. B is a labourer who has done a week's work for him. A gives B a cheque for his week's wages. Would it be a wise or foolish thing for A to cross this cheque? Why?

2. A gives B a cheque payable to "B or order." B personally presents the cheque at the bank for payment. B is a stranger at the bank. What will the bank require him to do, and why?

3. Is the crossing of cheques a common practice in Canada? If not, why not?

4. What parties have the right to cross a cheque?

5. A note reads: "I promise to pay," and is signed by two persons. What is it?

6. Properly drawn, what is the outstanding difference between a Patent Right Note and an ordinary promissory note?

7. Illustrate a simple form of Lien Note.

8. What condition of affairs must prevail before it is necessary to resort to a referee in case of need?

9. What must happen to a bill before the services of an acceptor for honor are possible?

10. What are the requisites of an acceptance for honour?

11. To what is the payer for honor entitled on paying the bill and expenses?

12. Who are discharged by payment for honor, and what is the position of the holder who refuses such payment?

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EXAMINATION QUESTIONS

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Lesson 6

REFERENCES

Questions		Questions	
1	S. 169—3 to 7.	8	S. 33.
2	S. 174.	9	S. 147.
3	G. K., S. 176—3.	10	S. 152.
4	S. 179—1.	11	S. 153.
5	S. 14, 16.	12	S. 154.
6	S. 15, 21, 70, 174.	13	S. 155.
7	G.K.		

1. What changes in a crossing once made are permissible, and who are permitted to make such changes? Why?
2. What is the effect of adding the words "Not negotiable" to a crossing? Is a cheque so crossed transferable? Explain.
3. Illustrate the form of Note mentioned in Section 176-3 of the Act and which contains a pledge of Collateral Security. Explain its use.
4. Distinguish between an Individual Note, a Joint Note, and a Joint and Several Note.
5. A is the owner of the patent right for the Russell Patent Fence. He sells to B the right for York County for \$1,000, taking in payment \$500 cash and a \$500 note. What precautions are necessary in drawing such a note? What is the penalty for failing to take the proper precaution?
6. From the standpoint of a prospective holder, what point of similarity do you find in the following:
 - (a) A patent right note properly drawn.
 - (b) An ordinary promissory note drawn payable to payee only.
 - (c) An overdue note.
 - (d) A cheque crossed and bearing the words "Not negotiable."
7. What is a Lien Note?
8. In a bill of exchange, what do you understand by a referee in case of need?
9. Who is the acceptor for honour?
10. What is the engagement of the acceptor for honour?
11. What do you understand by payment for honour?
12. How is a payment for honour attested?
13. What recourse has the payer for honour to recover the amount he paid?



Bills of Exchange

An Act relating to Bills of Exchange, Cheques and Promissory Notes.

SHORT TITLE.

1. This Act may be cited as the Bills of Exchange Act. Short Title. R.S., c. 119, s. 1.

INTERPRETATION.

- 2.** In this Act, unless the context otherwise requires,
- | | |
|---|--|
| (a) "acceptance" means an acceptance completed by delivery or notification; | Definitions.
"Acceptance." |
| (b) "action" includes counter-claim and set off; | "Action." |
| (c) "bank" means an incorporated bank or savings bank carrying on business in Canada; | "Bank." |
| (d) "bearer" means the person in possession of a bill or note which is payable to bearer; | "Bearer." |
| (e) "bill" means bill of exchange, and "note" means promissory note; | "Bill."
"Note." |
| (f) "defence" includes counter-claim; | "Defence." |
| (g) "delivery" means transfer of possession, actual or constructive, from one person to another; | "Delivery." |
| (h) "holder" means the payee or endorsee of a bill or note who is in possession of it, or the bearer thereof; | "Holder." |
| (i) "endorsement" means an endorsement completed by delivery; | "Endorsement." |
| (j) "issue" means the first delivery of a bill or note, complete in form, to a person who takes it as a holder; | "Issue." |
| (k) "non-business days" means days directed by this Act to be observed as legal holidays or non-judicial days; any other day is a business day; | "Non-business days."
"Business days." |
| (l) "value" means valuable consideration. R.S., c. 119, s. 2 | "Value." |

PART I.

GENERAL.

3. A thing is deemed to be done in good faith, within the meaning of this Act, where it is in fact done honestly whether it is done negligently or not. R.S., c. 119, s. 3.

Signature.

4. Where by this Act any instrument or writing is required to be signed by any person, it is not necessary that he should sign it with his own hand, but it is sufficient if his signature is written thereon by some other person by or under his authority. R.S., c. 119, s. 4.

What required of corporation.

5. In the case of a corporation, where, by this Act, any instrument or writing is required to be signed, it is sufficient if the instrument or writing is duly sealed with the corporate seal; but nothing in this section shall be construed as requiring the bill or note of a corporation to be under seal. R.S., c. 119, s. 5.

Computation of time.

6. Where, by this Act, the time limited for doing any act or thing is less than three days, in reckoning time, non-business days are excluded. R.S., c. 119, s. 6.

Crossing dividend warrants.

7. The provisions of this Act as to crossed cheques shall apply to a warrant for payment of dividend. R.S., c. 119, s. 7.

The Bank Act not affected.

8. Nothing in this Act shall affect the provisions of the Bank Act. R.S., c. 119, s. 8.

Imperial Acts 15 Geo. III, c. 51 and 17 Geo. III, c. 30.

9. The Act of the Parliament of Great Britain passed in the fifteenth year of the reign of His late Majesty George III, intituled *An Act to restrain the negotiation of Promissory Notes and Inland Bills of Exchange under a limited sum within that part of Great Britain called England*, and the Act of the said Parliament passed in the seventeenth year of His said Majesty's reign, intituled *An Act for further restraining the negotiation of Promissory Notes and Inland Bills of Exchange under a limited sum within that part of Great Britain called England*, shall not extend to or be in force in any province of Canada, nor shall the said Acts make void any bills, notes, drafts or orders made or uttered therein. R.S., c. 119, s. 9.

Common law of England.

10. The rules of the common law of England,[†] including the law merchant, save in so far as they are inconsistent with the express provisions of this Act, shall apply to bills of exchange, promissory notes and cheques. R.S., c. 119, s. 10.

Protest, *prima facie* evidence.

11. A protest of any bill or note within Canada, and any copy thereof as copied by the notary or justice of the peace, shall, in any action be *prima facie* evidence of presentation and dishonour, and also of service of notice of such presentation and dishonour as stated in such protest or copy. R.S., c. 119, s. 11.

12. If a bill or note, presented for acceptance, or payable out of Canada, is protested for non-acceptance or non-payment, a notarial copy of the protest and of the notice of dishonour, and a notarial certificate of the service of such notice, shall be received in all courts, as *prima facie* evidence of such protest, notice and service. R.S., c. 119, s. 12.

Copy of protest
prima facie
evidence.

13. No clerk, teller or agent of any bank shall act as a notary in the protesting of any bill or note payable at the bank or at any of the branches of the bank in which he is employed. R.S., c. 119, s. 13.

Officer of
bank not to
act as
notary.

14. Every bill or note the consideration of which consists, in whole or in part, of the purchase money of a patent right, or of a partial interest, limited geographically or otherwise, in a patent right, shall have written or printed prominently and legibly across the face thereof, before the same is issued, the words *Given for a patent right*.

Considera-
tion,
purchase
money
of patent.

2. Without such words thereon, such instrument and any renewal thereof shall be void, except in the hands of a holder in due course without notice of such consideration. R.S., c. 119, s. 14.

Absence of
necessary
words.

15. The endorsee or other transferee of any such instrument having the words aforesaid so printed or written thereon, shall take the same subject to any defence or set-off in respect of the whole or any part thereof which would have existed between the original parties. R.S., c. 119, s. 15.

Transferee
to take
with
equities.

16. Every one who issues, sells or transfers, by endorsement or delivery, any such instrument not having the words *Given for a patent right* printed or written in manner aforesaid across the face thereof, knowing the consideration of such instrument to have consisted, in whole or in part, of the purchase money of a patent right, or of a partial interest, limited geographically or otherwise, in a patent right, is guilty of an indictable offence and liable to imprisonment for any term not exceeding one year, or to such fine, not exceeding two hundred dollars, as the court thinks fit. R.S., c. 119, s. 16.

Transfer-
ring
defective
note.

Indictable
offence.

Penalty.

PART II.

BILLS OF EXCHANGE.

Form and Interpretation of Bill.

17. A bill of exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to

Bill of
exchange
defined.

pay, on demand or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person, or to bearer.

Non-compliance with requisites.

2. An instrument which does not comply with the requisites aforesaid, or which orders any act to be done in addition to the payment of money, is not, except as hereinafter provided, a bill of exchange.

Unconditional order.

3. An order to pay out of a particular fund is not unconditional within the meaning of this section: Provided that an unqualified order to pay, coupled with

(a) an indication of a particular fund out of which the drawee is to reimburse himself, or a particular account to be debited with the amount; or

(b) a statement of the transaction which gives rise to the bill; is unconditional. R.S., c. 119, s. 17.

Instrument payable on contingency.

18. An instrument expressed to be payable on a contingency is not a bill, and the happening of the event does not cure the defect.

Addressed to two or more drawees.

2. A bill may be addressed to two or more drawees, whether they are partners or not; but an order addressed to two drawees in the alternative, or to two or more drawees in succession, is not a bill of exchange. R.S., c. 119, s. 18.

Payee, drawer or drawee.

19. A bill may be drawn payable to, or to the order of, the drawer; or it may be drawn payable to, or to the order of, the drawee.

Two or more payees.

2. A bill may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees.

Holder of office payee.

3. A bill may be made payable to the holder of an office for the time being. R.S., c. 119, s. 19.

Drawee to be named.

20. The drawee must be named or otherwise indicated in a bill with reasonable certainty. R.S., c. 119, s. 20.

Transfer words.

21. When a bill contains words prohibiting transfer, or indicating an intention that it should not be transferable, it is valid as between the parties thereto, but it is not negotiable.

Negotiable bill.

2. A negotiable bill may be payable either to order or to bearer.

When payable to bearer.

3. A bill is payable to bearer which is expressed to be so payable, or on which the only or last endorsement is an endorsement in blank.

Certainty of payee.

4. Where a bill is not payable to bearer, the payee must be named or otherwise indicated therein with reasonable certainty.

5. Where the payee is a fictitious or non-existing person, the bill may be treated as payable to bearer. R.S., c. 119, s. 21. Fictitious payee.

22. A bill is payable to order which is expressed to be so payable, or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it should not be transferable. Bill payable to order when.

2. Where a bill, either originally or by endorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order, at his option. R.S., c. 119, s. 22. When payable to person or order.

23. A bill is payable on demand Payable on demand when.
 (a) which is expressed to be payable on demand, or on presentation; or
 (b) in which no time for payment is expressed.

2. Where a bill is accepted or endorsed when it is overdue, it shall, as regards the acceptor who so accepts, or any endorser who so endorses it, be deemed a bill payable on demand. R.S., c. 119, s. 23. Endorsed when overdue.

24. A bill is payable at a determinable future time, within the meaning of this Act, which is expressed to be payable Determinable future time.
 (a) at sight or at a fixed period after date or sight; Sight.
 (b) on or at a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening is uncertain. R.S., c. 119, s. 24. Specified event.

25. An inland bill is a bill which is, or on the face of it purports to be Inland bill defined.
 (a) both drawn and payable within Canada; or
 (b) drawn within Canada upon some person resident therein.

2. Any other bill is a foreign bill. Foreign bill.

3. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill. R.S., c. 119, s. 25. Presumption.

26. Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or as a promissory note. R.S., c. 119, s. 26. Bill or note.
Option.

27. A bill is not invalid by reason only that it Valid bill
 (a) is not dated; Not dated.
 (b) does not specify the value given, or that any value has been given therefor; Statement of value.

Statement of place. (c) does not specify the place where it is drawn or the place where it is payable;

Irregular date. (d) is antedated or postdated, or bears date on a Sunday or other non-juridical day. R.S., c. 119, s. 27.

Sum certain. **28.** The sum payable by a bill is a sum certain within the meaning of this Act, although it is required to be paid

Interest. (a) with interest;

Instalments. (b) by stated instalments;

Default. (c) by stated instalments, with a provision that upon default of any instalment the whole shall become due;

Exchange. (d) according to an indicated rate of exchange or according to a rate of exchange to be ascertained as directed by the bill.

Figures and words. 2. Where the sum payable is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words is the amount payable.

With interest. 3. Where a bill is expressed to be payable with interest, unless the instrument otherwise provides, interest runs from the date of the bill, and if the bill is undated, from the issue thereof. R.S., c. 119, s. 28.

True date presumption. **29.** Where a bill or an acceptance, or any endorsement on a bill, is dated, the date shall, unless the contrary is proved, be deemed to be the true date of the drawing, acceptance or endorsement, as the case may be. R.S., c. 119, s. 29.

Undated bill payable after date. **30.** Where a bill expressed to be payable at a fixed period after date is issued undated, or where the acceptance of a bill payable at sight or at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the bill shall be payable accordingly: Provided that

Inserting wrong date. (a) where the holder in good faith and by mistake inserts a wrong date; and

Not void. (b) in every other case where a wrong date is inserted; if the bill subsequently comes into the hands of a holder in due course the bill shall not be voided thereby, but shall operate and be payable as if the date so inserted had been the true date. R.S., c. 119, s. 30.

Perfecting bill. **31.** Where a simple signature on a blank paper is delivered by the signer in order that it may be converted into a bill, it operates as a *prima facie* authority to fill it up as a complete bill for any amount, using the signature for that of the drawer or acceptor, or an endorser; and, in like manner, when a bill is wanting in any material particular, the person in possession of it has a *prima facie* authority to fill up the omission in any way he thinks fit. R.S., c. 119, s. 31.

Authority. **32.**

32. In order that any such instrument when completed may be enforceable against any person who became a party thereto prior to its completion, it must be filled up within a reasonable time, and strictly in accordance with the authority given: Provided that if any such instrument, after completion, is negotiated to a holder in due course, it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time and strictly in accordance with the authority given.

When to be complete.

2. Reasonable time within the meaning of this section is a question of fact. R.S., c. 119, s. 32.

Reasonable time.

33. The drawer of a bill and any endorser may insert therein the name of a person, who shall be called the referee in case of need, to whom the holder may resort in case of need, that is to say, in case the bill is dishonoured by non-acceptance or non-payment.

Referee in case of need.

2. It is in the option of the holder to resort to the referee in case of need or not, as he thinks fit. R.S., c. 119, s. 33.

Option.

34. The drawer of a bill, and any endorser, may insert therein an express stipulation

Stipulations.

(a) negating or limiting his own liability to the holder;

Limiting.

(b) waiving, as regards himself, some or all of the holder's duties. R.S., c. 119, s. 34.

Waiving rights.

Acceptance.

35. The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer.

Acceptance defined.

2. Where in a bill the drawee is wrongly designated or his name is misspelt, he may accept the bill as therein described, adding, if he thinks fit, his proper signature, or he may accept by his proper signature. R.S., c. 119, s. 35.

Drawee's name wrong.

36. An acceptance is invalid unless it complies with the following conditions, namely:—

Acceptance.

(a) It must be written on the bill and be signed by the drawee;

On the bill.

(b) It must not express that the drawee will perform his promise by any other means than the payment of money.

For money.

2. The mere signature of the drawee written on the bill without additional words is a sufficient acceptance. R.S., c. 119, s. 36.

Mere signature.

37. A bill may be accepted

Acceptance.

(a) before it has been signed by the drawer, or while otherwise incomplete;

Before completion.

- Overdue. (b) when it is overdue, or after it has been dishonoured by a previous refusal to accept, or by non-payment.
- Acceptance after dishonour. 2. When a bill payable at sight or after sight is dishonoured by non-acceptance, and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of first presentment to the drawee for acceptance. R.S., c. 119, s. 37.
- Kinds. **38.** An acceptance is either
 (a) general; or
 (b) qualified.
- General. 2. A general acceptance assents without qualification to the order of the drawer.
- Qualified. 3. A qualified acceptance in express terms varies the effect of the bill as drawn and in particular, an acceptance is qualified which is
- Conditional. (a) conditional, that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated;
- Partial. (b) partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;
- Time. (c) qualified as to time;
- Drawees. (d) the acceptance of some one or more of the drawees, but not of all.
- Specified place. 4. An acceptance to pay at a particular specified place is not on that account conditional or qualified. R.S., c. 119, s. 38.

Delivery.

- When acceptance complete. **39.** Every contract on a bill, whether it is the drawer's, the acceptor's or an endorser's, is incomplete and revocable, until delivery of the instrument in order to give effect thereto: Provided, that where an acceptance is written on a bill, and the drawee gives notice to, or according to the directions of, the person entitled to the bill that he has accepted it, the acceptance then becomes complete and irrevocable. R.S., c. 119, s. 39.
- Proviso.
- Requisites. **40.** As between immediate parties, and as regards a remote party, other than a holder in due course, the delivery
- Authority. (a) in order to be effectual must be made either by or under the authority of the party drawing, accepting or endorsing, as the case may be;
- Conditional. (b) may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the bill.
- Presumption. 2. If the bill is in the hands of a holder in due course, a valid delivery of the bill by all parties prior to him, so as to make them liable to him, is conclusively presumed. R.S., c. 119, s. 40.

41. Where a bill is no longer in the possession of a party who has signed it as drawer, acceptor or endorser, a valid and unconditional delivery by him is presumed until the contrary is proved. R.S., c. 119, s. 41.

Parting
with
possession.

Computation of Time, Non-juridical Days and Days of Grace.

42. Where a bill is not payable on demand, three days, called days of grace, are, in every case, where the bill itself does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace: Provided that whenever the last day of grace falls on a legal holiday or non-juridical day in the province where any such bill is payable, then the day next following, not being a legal holiday or non-juridical day in such province, shall be the last day of grace. R.S., c. 119, s. 42.

Compu-
tion of
time.

Last day of
grace.

43. In all matters relating to bills of exchange, the following and no other days shall be observed as legal holidays or non-juridical days:—

Non-juri-
dical days.

- (a) In all the provinces of Canada, General.
- | | |
|-----------------|------------------|
| Sundays, | Dominion Day, |
| New Year's Day, | Labour Day, |
| Good Friday, | Remembrance Day, |
| Easter Monday, | Christmas Day. |
| Victoria Day, | |
- The birthday (or the day fixed by proclamation for the celebration of the birthday) of the reigning sovereign;
Any day appointed by proclamation for a public holiday, or for a general fast, or a general thanksgiving throughout Canada.
The day next following New Year's Day, Christmas Day, Victoria Day, Dominion Day, and the birthday of the reigning sovereign when such days respectively fall on Sunday;
- (b) In the province of Quebec in addition to the said days, Quebec
- | | |
|----------------|------------------|
| The Epiphany, | All Saints' Day, |
| The Ascension, | Conception Day. |
- (c) In any one of the provinces of Canada, any day appointed by proclamation of the Lieutenant-Governor of such province for a public holiday, or for a fast or thanksgiving within the same, and any non-juridical day by virtue of a statute of such province. Provincial
proclama-
tion.
- (d) In any city, town, municipality or other organized district, any day appointed as a civic holiday by resolution of the council, Civic
holiday.

council, or other statutory body charged with the administration of the civic or municipal affairs of the city, town, municipality or district. R.S., c. 16, s. 43, am.

Time of
payment.

44. Where a bill is payable at sight, or at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run and by including the day of payment. R.S., c. 119, s. 44.

Sight bill.

45. Where a bill is payable at sight or at a fixed period after sight, the time begins to run from the date of the acceptance if the bill is accepted, and from the date of noting or protest if the bill is noted or protested for non-acceptance, or for non-delivery. R.S., c. 119, s. 45.

Due date.

46. Every bill which is made payable at a month or months after date becomes due on the same numbered day of the month in which it is made payable as the day on which it is dated, unless there is no such day in the month in which it is made payable, in which case it becomes due on the last day of that month, with the addition, in all cases, of the days of grace.

"Month."?

2. The term "month" in a bill means the calendar month. R.S., c. 119, s. 46.

Capacity and Authority of Parties.

Capacity
of parties.

47. Capacity to incur liability as a party to a bill is co-extensive with capacity to contract: Provided that nothing in this section shall enable a corporation to make itself liable as drawer, acceptor or endorser, of a bill, unless it is competent to it so to do under the law for the time being in force relating to such corporation. R.S., c. 119, s. 47.

Corpora-
tions.

Effect of
disability
on holder.

48. Where a bill is drawn or endorsed by an infant, minor, or corporation having no capacity or power to incur liability on a bill, the drawing or endorsement entitles the holder to receive payment of the bill, and to enforce it against any other party thereto. R.S., c. 119, s. 48.

Forgery.

49. Subject to the provisions of this Act, where a signature on a bill is forged, or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorized signature is wholly inoperative, and no right to retain the bill or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority: Provided that

Estoppel.

(a) nothing in this section shall affect the ratification of an unauthorized signature not amounting to a forgery; Ratification.

(b) if a cheque payable to order is paid by the drawee upon a forged endorsement out of the funds of the drawer, or is so paid and charged to his account, the drawer shall have no right of action against the drawee for the recovery back of the amount so paid, nor any defence to any claim made by the drawee for the amount so paid, as the case may be, unless he gives notice in writing of such forgery to the drawee within one year after he has acquired notice of such forgery. Recovery of amount paid on forged cheque.

2. In case of failure by the drawer to give such notice within the said period, such cheque shall be held to have been paid in due course as respects every other party thereto or named therein, who has not previously instituted proceedings for the protection of his rights. R.S., c. 119, s. 49. Default of notice.

50. If a bill bearing a forged or unauthorized endorsement is paid in good faith and in the ordinary course of business, by or on behalf of the drawee or acceptor, the person by whom or on whose behalf such payment is made shall have the right to recover the amount so paid from the person to whom it was so paid or from any endorser who has endorsed the bill subsequently to the forged or unauthorized endorsement if notice of the endorsement being a forged or unauthorized endorsement is given to each such subsequent endorser within the time and in the manner in this section mentioned. Recovery of amount paid on forged endorsement.

2. Any such person or endorser from whom said amount has been recovered shall have the like right of recovery against any prior endorser subsequent to the forged or unauthorized endorsement. Rights over.

3. Such notice of the endorsement being a forged or unauthorized endorsement shall be given within a reasonable time after the person seeking to recover the amount has acquired notice that the endorsement is forged or unauthorized, and may be given in the same manner, and if sent by post may be addressed in the same way, as notice of protest or dishonour of a bill may be given or addressed under this Act. R.S., c. 119, s. 50. Notice of forgery.

51. A signature by procuration operates as notice that the agent has but a limited authority to sign, and the principal is bound by such signature only if the agent in so signing was acting within the actual limits of his authority. R.S., c. 119, s. 51. Procuration signatures.

Signing in
representative
capacity.

52. Where a person signs a bill as drawer, endorser or acceptor, and adds words to his signature indicating that he signs for or on behalf of a principal, or in a representative character, he is not personally liable thereon; but the mere addition to his signature of words describing him as an agent, or as filling a representative character, does not exempt him from personal liability.

Rule for
determining
capacity.

2. In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted. R.S., c. 119, s. 52.

Consideration.

Valuable.

53. Valuable consideration for a bill may be constituted by

Sufficiency.

(a) any consideration sufficient to support a simple contract;

Antecedent
debt.

(b) an antecedent debt or liability.

Form
of bill.

2. Such a debt or liability is deemed valuable consideration whether the bill is payable on demand or at a future time. R.S., c. 119, s. 53.

Holder for
value.

54. Where value has, at any time, been given for a bill, the holder is deemed to be a holder for value as regards the acceptor and all parties to the bill who became parties prior to such time.

In case of
lien.

2. Where the holder of a bill has a lien on it, arising either from contract or by implication of law, he is deemed to be a holder for value to the extent of the sum for which he has a lien. R.S., c. 119, s. 54.

Accommo-
dation bill.

55. An accommodation party to a bill is a person who has signed a bill as drawer, acceptor or endorser, without receiving value therefor, and for the purpose of lending his name to some other person.

Liability of
party.

2. An accommodation party is liable on the bill to a holder for value; and it is immaterial whether, when such holder took the bill he knew such party to be an accommodation party or not. R.S., c. 119, s. 55.

Holder in Due Course.

Holder in
due course.

56. A holder in due course is a holder who has taken a bill, complete and regular on the face of it, under the following conditions, namely:—

Notice

(a) That he became the holder of it before it was overdue and without notice that it had been previously dishonoured, if such was the fact;

Good faith

(b) That he took the bill in good faith and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it.

2. In particular the title of a person who negotiates a bill is defective within the meaning of this Act when he obtained the bill, or the acceptance thereof, by fraud, duress or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud. R.S., c. 119, s. 56.

Title defective.

57. A holder, whether for value or not, who derives his title to a bill through a holder in due course, and who is not himself a party to any fraud or illegality affecting it, has all the rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder. R.S., c. 119, s. 57.

Right of subsequent holder.

58. Every party whose signature appears on a bill is *prima facie* deemed to have become a party thereto for value.

Presumption of value.

2. Every holder of a bill is *prima facie* deemed to be a holder in due course; but if, in an action on a bill it is admitted or proved that the acceptance, issue or subsequent negotiation of the bill is affected with fraud, duress or force and fear, or illegality, the burden of proof that he is such holder in due course shall be on him, unless and until he proves that, subsequent to the alleged fraud or illegality, value has in good faith been given for the bill by some other holder in due course. R.S., c. 119, s. 58.

Due course.

Burden of proof.

59. No bill, although given for a usurious consideration or upon a usurious contract, is void in the hands of a holder, unless such holder had at the time of its transfer to him actual knowledge that it was originally given for a usurious consideration, or upon a usurious contract. R.S., c. 119, s. 59.

Usurious consideration.

Negotiation.

60. A bill is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder of the bill.

By transfer.

2. A bill payable to bearer is negotiated by delivery.

By delivery.

3. A bill payable to order is negotiated by the endorsement of the holder completed by delivery. R.S., c. 119, s. 60.

By endorsement.

61. Where the holder of a bill payable to his order transfers it for value without endorsing it, the transfer gives the transferee such title as the transferor had in the bill, and the transferee in addition acquires the right to have the endorsement of the transferor.

Without endorsement.

2. Where any person is under obligation to endorse a bill in a representative capacity, he may endorse the bill in such terms as to negative personal liability. R.S., c. 119, s. 61.

Representative capacity.

Endorsing.

62. An endorsement in order to operate as a negotiation must be

Writing

(a) written on the bill itself and be signed by the endorser;

Entire bill.

(b) an endorsement of the entire bill.

Allonge.

2. An endorsement written on an allonge, or on a *copy* of a bill issued or negotiated in a country where *copies* are recognized, is deemed to be written on the bill itself.

Partial endorsement.

3. A partial endorsement, that is to say, an endorsement which purports to transfer to the endorsee a part only of the amount payable, or which purports to transfer the bill to two or more endorsees severally, does not operate as a negotiation of the bill. R.S., c. 119, s. 62.

Signature sufficient.

63. The simple signature of the endorser on the bill, without additional words, is a sufficient endorsement.

Two or more payees.

2. Where a bill is payable to the order of two or more payees or endorsees who are not partners, all must endorse, unless the one endorsing has authority to endorse for the others. R.S., c. 119, s. 63.

Misspelling payee's name.

64. Where, in a bill payable to order, the payee or endorsee is wrongly designated, or his name is misspelt, he may endorse the bill as therein described, adding his proper signature; or he may endorse by his own proper signature. R.S., c. 119, s. 64.

Presumption as to order of endorsement.

65. Where there are two or more endorsements on a bill, each endorsement is deemed to have been made in the order in which it appears on the bill, until the contrary is proved. R.S., c. 119, s. 65.

Disregarding condition.

66. Where a bill purports to be endorsed conditionally, the condition may be disregarded by the payer, and payment to the endorsee is valid, whether the condition has been fulfilled or not. R.S., c. 119, s. 66.

Endorsement in blank.

67. An endorsement may be made in blank or special.

2. An endorsement in blank specifies no endorsee, and a bill so endorsed becomes payable to bearer.

Special endorsement.

3. A special endorsement specifies the person to whom, or to whose order, the bill is to be payable.

Application of Act to,

4. The provisions of this Act relating to a payee apply, with the necessary modifications, to an endorsee under a special endorsement.

Conversion of blank endorsement.

5. Where a bill has been endorsed in blank, any holder may convert the blank endorsement into a special endorsement by writing above the endorser's signature a direction to pay the bill to or to the order of himself or some other person. R.S., c. 119, s. 67.

68. An endorsement may also contain terms making it restrictive. Restrictive endorsement.

2. An endorsement is restrictive which prohibits the further negotiation of the bill, or which expresses that it is a mere authority to deal with the bill as thereby directed, and not a transfer of the ownership thereof, as, for example, if a bill is endorsed "Pay D only," or "Pay D for the account of X," or "Pay D, or order, for collection." What is.

3. A restrictive endorsement gives the endorsee the right to receive payment of the bill and to sue any party thereto that his endorser could have sued, but gives him no power to transfer his rights as endorsee unless it expressly authorizes him to do so. Rights of endorsee.

4. Where a restrictive endorsement authorizes further transfer, all subsequent endorsees take the bill with the same rights and subject to the same liabilities as the first endorsee under the restrictive endorsement. R.S., c. 119, s. 68 If further transfer is authorized.

69. Where a bill is negotiable in its origin, it continues to be negotiable until it has been When negotiability ceases.
 (a) restrictively endorsed; or
 (b) discharged by payment or otherwise. R.S., c. 119, s. 69.

70. Where an overdue bill is negotiated, it can be negotiated only subject to any defect of title affecting it at its maturity, and thenceforward no person who takes it can acquire or give a better title than that which had the person from whom he took it. Overdue bill.

2. A bill payable on demand is deemed to be overdue within the meaning and for the purposes of this section, when it appears on the face of it to have been in circulation for an unreasonable length of time. Equities.

3. What is an unreasonable length of time for such purpose is a question of fact. R.S., c. 119, s. 70. Demand bill when Time.

71. Except where an endorsement bears date after the maturity of the bill, every negotiation is *prima facie* deemed to have been effected before the bill was overdue. R.S., c. 119, s. 71. Presumption as to.

72. Where a bill which is not overdue has been dishonoured, any person who takes it with notice of the dishonour takes it subject to any defect of title attaching thereto at the time of dishonour; but nothing in this section shall affect the rights of a holder in due course. R.S., c. 119, s. 72. Taking bill with notice of dishonour.

Reissue of
bill.

73. Where a bill is negotiated back to the drawer, or to a prior endorser, or to the acceptor, such party may, subject to the provisions of this Act, reissue and further negotiate the bill, but he is not entitled to enforce the payment of the bill against any intervening party to whom he was previously liable. R.S., c. 119, s. 73.

Rights and Powers of Holder.

Rights of
holder.

May sue.

Prior
defects.

Title
from him.

Discharge
from him.

74. The rights and powers of the holder of a bill are as follows:—

- (a) He may sue on the bill in his own name;
- (b) Where he is a holder in due course, he holds the bill free from any defect of title of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill;
- (c) Where his title is defective, if he negotiates the bill to a holder in due course, that holder obtains a good and complete title to the bill; and
- (d) Where his title is defective if he obtains payment of the bill the person who pays him in due course gets a valid discharge for the bill. R.S., c. 119, s. 74.

Presentment for Acceptance.

When
necessary.

Express
stipulation.

Other
cases.

Present-
ment
excused.

Sight bill.

If not
presented.

75. Where a bill is payable at sight or after sight, presentment for acceptance is necessary in order to fix the maturity of the instrument

2. Where a bill expressly stipulates that it shall be presented for acceptance, or where a bill is drawn payable elsewhere than at the residence or place of business of the drawee, it must be presented for acceptance before it can be presented for payment.

3. In no other case is presentment for acceptance necessary in order to render liable any party to the bill. R.S., c. 119, s. 75.

76. Where the holder of a bill, drawn payable elsewhere than at the place of business or residence of the drawee, has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused, and does not discharge the drawer and endorsers. R.S., c. 119, s. 76.

77. Subject to the provisions of this Act when a bill payable at sight or after sight is negotiated, the holder must either present it for acceptance or negotiate it within a reasonable time.

2. If he does not do so, the drawer and all endorsers prior to that holder are discharged.

3. In determining what is a reasonable time within the meaning of this section, regard shall be had to the nature of the bill the usage of trade with respect to similar bills and the facts of the particular case. R.S., c. 119 s. 77. Reasonable time.

78. A bill is duly presented for acceptance which is presented in accordance with the following rules namely:— Rules

- (a) The presentment must be made by or on behalf of the holder to the drawee or to some person authorized to accept or refuse acceptance on his behalf at a reasonable hour on a business day and before the bill is overdue; By holder to drawee.
- (b) Where a bill is addressed to two or more drawees, who are not partners, presentment must be made to them all, unless one has authority to accept for all, when presentment may be made to him only; To all drawees.
- (c) Where the drawee is dead, presentment may be made to his personal representative; To personal representative.
- (d) Where authorized by agreement or usage, a presentment through the post office is sufficient. R.S., c. 119, s. 78. Post office.

79. Presentment in accordance with the aforesaid rules is excused, and a bill may be treated as dishonoured by non-acceptance, where Excuses.

- (a) the drawee is dead, or a fictitious person or a person not having capacity to contract by bill; Drawee dead.
- (b) after the exercise of reasonable diligence, such presentment cannot be effected; Impracticability.
- (c) although the presentment has been irregular, acceptance has been refused on some other ground. Waiver.

2. The fact that the holder has reason to believe that the bill, on presentment, will be dishonoured does not excuse presentment. R.S., c. 119, s. 79. Excuse.

80. The drawee may accept a bill on the day of its due presentment to him for acceptance, or at any time within two days thereafter. Time for acceptance.

2. When a bill is so duly presented for acceptance and is not accepted within the time aforesaid, the person presenting it must treat it as dishonoured by non-acceptance. Dishonour.

3. If he does not so treat the bill as dishonoured, the holder shall lose his right of recourse against the drawer and endorsers. Loss of rights.

4. In the case of a bill payable at sight or after sight, the acceptor may date his acceptance thereon as of any of the days aforesaid but not later than the day of his actual acceptance of the bill. Date of acceptance.

5. If the acceptance is not so dated, the holder may refuse to take the acceptance and may treat the bill as dishonoured by non-acceptance. R.S., c. 119, s. 80. Refusing acceptance.

Dishonour.
Present-
ment.

81. A bill is dishonoured by non-acceptance when
(a) it is duly presented for acceptance, and such an acceptance as is prescribed by this Act is refused or cannot be obtained; or
(b) presentment for acceptance is excused and the bill is not accepted. R.S., c. 119, s. 81.

Recourse
in such
case.

82. Subject to the provisions of this Act, when a bill is dishonoured by non-acceptance an immediate right of recourse against the drawer and endorsers accrues to the holder, and no presentment for payment is necessary. R.S., c. 119, s. 82.

Qualified
acceptance.

83. The holder of a bill may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance may treat the bill as dishonoured by non-acceptance.

Assent.

2. When the drawer or endorser of a bill receives notice of a qualified acceptance, and does not within a reasonable time express his dissent to the holder, he shall be deemed to have assented thereto. R.S., c. 119, 2. 83.

Qualified
acceptance.
without
authority.

84. Where a qualified acceptance is taken, and the drawer or an endorser has not expressly or impliedly authorized the holder to take a qualified acceptance, or does not subsequently assent thereto, such drawer or endorser is discharged from his liability on the bill: Provided that this section shall not apply to a partial acceptance, whereof due notice has been given. R.S., c. 119, 2. 84.

Partial
acceptance.

Presentment for Payment.

Necessity.

85. Subject to the provisions of this Act, a bill must be duly presented for payment.

If not
presented.

2. If it is not so presented, the drawer and endorsers shall be discharged.

Manner of.

3. Where the holder of a bill presents it for payment, he shall exhibit the bill to the person from whom he demands payment. R.S., c. 119, s. 85.

Time for.

86. A bill is duly presented for payment which is presented when the bill is

Due date.
Demand
bill.

(a) not payable on demand, on the day it falls due; or
(b) payable on demand, within a reasonable time after its issue, in order to render the drawer liable, and within a reasonable time after its endorsement, in order to render the endorser liable.

Reasonable
time.

2. In determining what is a reasonable time within the meaning of this section regard shall be had to the nature of the bill, the usage of trade with regard to similar bills and the facts of the particular case. R.S., c. 119, s. 86.

87. Presentment must be made by the holder or by some person authorized to receive payment on his behalf, at the proper place as hereinafter defined, and either to the person designated by the bill as payer or to his representative or some person authorized to pay or to refuse payment on his behalf, if with the exercise of reasonable diligence such person can there be found. By and to whom.

2. When a bill is drawn upon, or accepted by two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all. Two acceptors.

3. When the drawee or acceptor of a bill is dead, and no place of payment is specified, presentment must be made to a personal representative if such there is, and with the exercise of reasonable diligence, he can be found. R.S., c. 119, s. 87. Personal representation.

88. A bill is presented at the proper place

- (a) where a place of payment is specified in the bill or acceptance, and the bill is there presented; Place of. When specified.
- (b) where no place of payment is specified, but the address of the drawee or acceptor is given in the bill, and the bill is there presented; When not specified.
- (c) where no place of payment is specified, and no address given, and the bill is presented at the drawee's or acceptor's place of business, if known, and if not, at his ordinary residence, if known; When no address is given.
- (d) in any other case, if presented to the drawee or acceptor wherever he can be found, or if presented at his last known place of business or residence. R.S., c. 119, s. 88. Other cases.

89. Where a bill is presented at the proper place as aforesaid and after the exercise of reasonable diligence, no person authorized to pay or refuse payment can there be found no further presentment to the drawee or acceptor is required. R.S., c. 119, s. 89. Sufficient presentment.

90. Where the place of payment specified in the bill or acceptance is any city, town or village, and no place therein is specified, and the bill is presented at the drawee's or acceptor's known place of business or known ordinary residence therein, and if there is no such place of business or residence, the bill is presented at the post office, or principal post office in such city, town or village, such presentment is sufficient. Presentment at post office.

2. Where authorized by agreement or usage, a presentment through the post office is sufficient. R.S., c. 119, s. 90. Through post office.

Delay in
present-
ment.

91. Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence.

Diligence

2. When the cause of delay ceases to operate, presentment must be made with reasonable diligence. R.S., c. 119, s. 91.

Dispense
with.
Impracti-
cable.

92. Presentment for payment is dispensed with

Fictitious
drawee.
Useless.

(a) where, after the exercise of reasonable diligence, presentment, as required by this Act, cannot be effected;

(b) where the drawee is a fictitious person;

(c) as regards the drawer, where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented;

Accommo-
dation bill.

(d) as regards an endorser, where the bill was accepted or made for the accommodation of that endorser, and he has no reason to expect that the bill would be paid if presented;

Waiver.
Not dispense
with.

(e) by waiver of presentment, express or implied.

2. The fact that the holder has reason to believe that the bill will, on presentment, be dishonoured, does not dispense with the necessity for presentment. R.S., c. 119, s. 92.

When no
place
specified.

93. When no place of payment is specified in the bill or acceptance, presentment for payment is not necessary in order to render the acceptor liable.

If place
specified.

2. When a place of payment is specified in the bill or acceptance, the acceptor, in the absence of an express stipulation to that effect, is not discharged by the omission to present the bill for payment on the day that it matures, but if any suit or action be instituted thereon before presentation the costs thereof shall be in the discretion of the court.

Neglect.

3. When a bill is paid the holder shall forthwith deliver it up to the party paying it. R.S., c. 119, s. 93.

Time for
present-
ment.

94. Where the address of the acceptor for honour of a bill is in the same place where the bill is protested for non-payment, the bill must be presented to him not later than the day following its maturity.

Parties in
different
places.

2. Where the address of the acceptor for honour is in some place other than the place where it is protested for non-payment, the bill must be forwarded not later than the day following its maturity for presentment to him.

Excuses
or delay.

3. Delay in presentment or non-presentment is excused by any circumstance which would in case of acceptance by a drawee excuse delay in presentment for payment or non-presentment for payment. R.S., c. 119, s. 94.

95. A bill is dishonoured by non-payment when

- (a) it is duly presented for payment and payment is refused or cannot be obtained; or
- (b) presentment is excused and the bill is overdue and unpaid.

Non-pay-
ment on
presen-
ment.

Excuse.

2. Subject to the provisions of this Act, when a bill is dishonoured by non-payment, an immediate right of recourse against the drawer, acceptor and endorsers accrues to the holder. R.S., c. 119, s. 95.

Recourse.

Notice of Dishonour.

96. Subject to the provisions of this Act, when a bill has been dishonoured by non-acceptance or by non-payment, notice of dishonour must be given to the drawer, and each endorser, and any drawer or endorser to whom such notice is not given is discharged: Provided that

Notice of
dishonour.

- (a) where a bill is dishonoured by non-acceptance, and notice of dishonour is not given, the rights of a holder in due course subsequent to the omission shall not be prejudiced by the omission;
- (b) where a bill is dishonoured by non-acceptance, and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment, unless the bill shall in the meantime have been accepted.

Subsequent
holder.

Notice of
non-
payment.

2. In order to render the acceptor of a bill liable it is not necessary that notice of dishonour should be given to him. R.S., c. 119, s. 96.

Notice to
acceptor.

97. Notice of dishonour in order to be valid and effectual must be given

Notice.

- (a) not later than the juridical or business day next following the dishonour of the bill;
- (b) by or on behalf of the holder, or by or on behalf of an endorser, who at the time of giving it, is himself liable on the bill;
- (c) in the case of the death, if known to the party giving notice, of the drawer or endorser, to a personal representative, if such there is and with the exercise of reasonable diligence he can be found;
- (d) in case of two or more drawers or endorsers who are not partners, to each of them, unless one of them has authority to receive notice for the others. R.S., c. 119, s. 97.

Time for.

By holder
or endorser

Personal
representa-
tive.

Two or more
drawees.

98. Notice of dishonour may be given

- (a) as soon as the bill is dishonoured;
- (b) to the party to whom the same is required to be given, or to his agent in that behalf;

Notice.
Earliest
time.
To whom.

- By agent. (c) by an agent either in his own name or in the name of any party entitled to give notice whether that party is his principal or not;
- Manner. (d) in writing or by personal communication and in any terms which identify the bill and intimate that the bill has been dishonoured by non-acceptance or non-payment.
- Misdescription. 2. A misdescription of the bill shall not vitiate the notice unless the party to whom the notice is given is in fact misled thereby. R.S., c. 119, s. 98.

Form. **99.** In point of form

Return of bill. (a) the return of a dishonoured bill to the drawer or an endorser is a sufficient notice of dishonour;

Signature. (b) a written notice need not be signed.

Verbal supplement. 2. An insufficient written notice may be supplemented and validated by verbal communication. R.S., c. 119, s. 99.

Notice to agent. **100.** Where a bill when dishonoured is in the hands of an agent he may himself give notice to the parties liable on the bill, or he may give notice to his principal, in which case the principal upon receipt of the notice shall have the same time for giving notice as if the agent had been an independent holder.

Time for. 2. If the agent gives notice to his principal he must do so within the same time as if he were an independent holder. R.S., c. 119, s. 100.

Notice to antecedent parties. **101.** Where a party to a bill receives due notice of dishonour he has, after the receipt of such notice, the same period of time for giving notice to antecedent parties that a holder has after dishonour. R.S., c. 119, s. 101.

Benefit enures **102.** A notice of dishonour enures for the benefit,
 (a) of all subsequent holders and of all prior endorsers who have a right of recourse against the party to whom it is given, where given on behalf of the holder;
 (b) of the holder and all endorsers subsequent to the party to whom notice is given, where given, by or on behalf of an endorser entitled under this Part to give notice. R.S., c. 119, s. 102.

Sufficiency of giving. **103.** Notice of the dishonour of any bill payable in Canada shall, notwithstanding anything in this Act contained, be sufficiently given if it is addressed in due time to any party to such bill entitled to such notice, at his customary address or place of residence or at the place at which such bill is dated; unless any such party has, under his signature, designated another place, in which case such notice shall be sufficiently given if addressed to him in due time at such other place.

2. Such notice so addressed shall be sufficient, although the place of residence of such party is other than either of the places aforesaid, and shall be deemed to have been duly served and given for all purposes if it is deposited in any post office, with the postage paid thereon, at any time during the day on which presentment has been made, or on the next following juridical or business day. Sufficiency of notice.

3. Such notice shall not be invalid by reason only of the fact that the party to whom it is addressed is dead. R.S., c. 119, s. 103. Death of party.

104. Where a notice of dishonour is duly addressed and posted, as provided in the last preceding section, the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the post office. R.S., c. 119, s. 104. Miscarriage in post service.

105. Delay in giving notice of dishonour is excused where the delay is caused by circumstances beyond the control of the party giving notice, and not imputable to his default, misconduct or negligence. Excuse for delay.

2. When the cause of delay ceases to operate the notice must be given with reasonable diligence. R.S., c. 119, s. 105. Diligence.

106. Notice of dishonour is dispensed with Dispensed with.
 (a) when after the exercise of reasonable diligence, notice as required by this Act cannot be given to or does not reach the drawer or endorser sought to be charged; Reasonable diligence.
 (b) by waiver express or implied. Waiver.

2. Notice of dishonour may be waived before the time of giving notice has arrived, or after the omission to give due notice. R.S., c. 119, s. 106. Time of.

107. Notice of dishonour is dispensed with as regards the drawer where the Dispensed with.
 (a) drawer and drawee are the same person; Same person.
 (b) drawee is a fictitious person or a person not having capacity to contract; Fictitious person.
 (c) drawer is the person to whom the bill is presented for payment; Presented to drawer.
 (d) drawee or acceptor is, as between himself and the drawer, under no obligation to accept or pay the bill; No obligation.
 (e) drawer has countermanded payment. R.S., c. 119, s. 107. Countermand.

108. Notice of dishonour is dispensed with as regards the endorser where Dispensed with.

Fictitious
person.

(a) the drawee is a fictitious person or a person not having capacity to contract, and the endorser was aware of the fact at the time he endorsed the bill;

Presented
to
endorser.
Accommo-
dation.

(b) the endorser is the person to whom the bill is presented for payment;

(c) the bill was accepted or made for his accommodation. R.S., c. 119, s. 108.

Protest.

Necessity
of.

109. In order to render the acceptor of a bill liable it is not necessary to protest it. R.S., c. 119, s. 109.

Dispensed
with.

110. Protest is dispensed with by any circumstances which would dispense with notice of dishonour. R.S., c. 119, s. 110.

Delay
excused.

111. Delay in noting or protesting is excused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence.

Diligence.

2. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence. R.S., c. 119, s. 111.

Foreign
bill,
non-accept-
ance.

112. Where a foreign bill appearing on the face of it to be such has been dishonoured by non-acceptance it must be duly protested for non-acceptance.

Non-pay-
ment.

2. Where a foreign bill which has not been previously dishonoured by non-acceptance is dishonoured by nonpayment, it must be duly protested for non-payment.

Balance.

3. Where a foreign bill has been accepted only as to part it must be protested as to the balance.

Discharge

4. If a foreign bill is not protested as by this section required the drawer and endorsers are discharged. R.S., c. 119, s. 112.

Protest of
inland bill.

113. Where an inland bill has been dishonoured, it may, if the holder thinks fit, be noted and protested for non-acceptance or non-payment as the case may be; but it shall not, except in the province of Quebec, be necessary to note or protest an inland bill in order to have recourse against the drawer or endorsers. R.S., c. 119, s. 113.

Quebec.

Discharge
in default
of protest.

114. In the case of an inland bill drawn upon any person in the province of Quebec or payable or accepted at any place in the said province the parties liable on the said bill other than the acceptor are, in default of protest for non-acceptance or non-payment as the case may be, and of notice thereof, discharged, except in cases where the circumstances are such as would dispense with notice of dishonour.

2. Except as in this section provided, where a bill does not on the face of it appear to be a foreign bill, protest thereof in case of dishonour is unnecessary. R.S., c. 119, s. 114.

Protest unnecessary.

115. A bill which has been protested for non-acceptance, or a bill of which protest for non-acceptance has been waived, may be subsequently protested for non-payment. R.S., c. 119, s. 115.

Subsequent protest for non-payment.

116. Where the acceptor of a bill suspends payment before it matures, the holder may cause the bill to be protested for better security against the drawer and endorsers. R.S., c. 119, s. 116.

Protest for better security.

117. Where a dishonoured bill has been accepted for honour *supra* protest, or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honour, or referee in case of need.

Acceptance for honour.

2. When a bill of exchange is dishonoured by the acceptor for honour, it must be protested for non-payment by him. R.S., c. 119, s. 117.

Protest for non-payment.

118. For the purposes of this Act, where a bill is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding. R.S., c. 119, s. 118.

Noting equivalent to protest.

119. Subject to the provisions of this Act, when a bill is protested the protest must be made or noted on the day of its dishonour.

Noting or protest.

2. When a bill has been duly noted, the formal protest may be extended thereafter at any time as of the date of the noting. R.S., c. 119, s. 119.

Extending protest.

120. Where a bill is lost or destroyed, or is wrongly or accidentally detained from the person entitled to hold it, or is accidentally retained in a place other than where payable, protest may be made on a copy or written particulars thereof. R.S., c. 119, s. 120.

Protest on copy or particulars.

121. A bill must be protested at the place where it is dishonoured, or at some other place in Canada situate within five miles of the place of presentment and dishonour of such bill: Provided that

Place of protest.

Where bill
returned.

(a) when a bill is presented through the post office and returned by post dishonoured, it may be protested at the place to which it is returned, not later than on the day of its return or the next juridical day;

Time when.

(b) every protest for dishonour, either for non-acceptance or non-payment may be made on the day of such dishonour, and in case of non-acceptance at any time after non-acceptance, and in case of non-payment at any time after three o'clock in the afternoon. R.S., c. 119, s. 121.

Contents of
protest.

122. A protest must contain a copy of the bill, or the original bill may be annexed thereto, and the protest must be signed by the notary making it, and must specify the

Person.

(a) person at whose request the bill is protested;

Place.

(b) place and date of protest;

Reason.

(c) cause or reason for protesting the bill;

Proceeding.

(d) demand made and the answer given, if any; or

Excuse.

(e) fact that the drawee or acceptor could not be found. R.S., c. 119, s. 122.

Official
when
notary is
not
accessible.

123. Where a dishonoured bill is authorized or required to be protested, and the services of a notary cannot be obtained at the place where the bill is dishonoured, any justice of the peace resident in the place may present and protest such bill and give all necessary notices and shall have all the necessary powers of a notary in respect thereto. R.S., c. 119, s. 123.

Expenses.

Fees.

124. The expense of noting and protesting any bill and the postages thereby incurred, shall be allowed and paid to the holder in addition to any interest thereon.

Forms.

2. Notaries may charge the fees in each province heretofore allowed them. R.S., c. 119, s. 124.

Contents.

125. The forms in the schedule to this Act may be used in noting or protesting any bill and in giving notice thereof.

2. A copy of the bill and endorsement may be included in the forms, or the original bill may be annexed and the necessary changes in that behalf made in the forms. R.S., c. 119, s. 125.

When
notice of
protest
shall be
given.

126. Notice of the protest of any bill payable in Canada shall be sufficiently given and shall be sufficient and deemed to have been duly given and served, if given during the day on which protest has been made or on the next following juridical or business day, to the same parties and in the same manner and addressed in the same way as is provided by this Part for notice of dishonour. R.S., c. 119, s. 126.

Liabilities of Parties.

127. A bill, of itself, does not operate as an assignment of funds in the hands of the drawee available for the payment thereof, and the drawee of a bill who does not accept as required by this Act is not liable on the instrument. R.S., c. 119, s. 127. Equitable assignment.

128. The acceptor of a bill, by accepting it, engages that he will pay it according to the tenor of his acceptance. R.S., c. 119, s. 128. Engagement by acceptance.

129. The acceptor of a bill by accepting it is precluded from denying to a holder in due course, Estoppel.

- (a) the existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the bill; Genuineness and authority.
- (b) in the case of a bill payable to drawer's order, the then capacity of the drawer to endorse, but not the genuineness or validity of his endorsement; Capacity of drawer.
- (c) in the case of a bill payable to the order of a third person, the existence of the payee and his then capacity to endorse, but not the genuineness or validity of his endorsement. R.S., c. 119, s. 129. Payee and capacity.

130. The drawer of a bill, by drawing it, Drawer.

- (a) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it is dishonoured he will compensate the holder or any endorser who is compelled to pay it, if the requisite proceedings on dishonour are duly taken; Engages acceptance and compensation.
- (b) is precluded from denying to a holder in due course the existence of the payee and his then capacity to endorse. R.S., c. 119, s. 130. Estoppel or to payee.

131. No person is liable as drawer, endorser or acceptor of a bill who has not signed it as such: Provided that when a person signs a bill otherwise than as a drawer or acceptor he thereby incurs the liabilities of an endorser to a holder in due course and is subject to all the provisions of this Act respecting endorsers. R.S., c. 119, s. 131. Liability by signature.
Irregular endorsement.

132. Where a person signs a bill in a trade or assumed name he is liable thereon as if he had signed it in his own name. Trade or assumed name.

2. The signature of the name of a firm is equivalent to the signature by the person so signing, of the names of all persons liable as partners in that firm. R.S., c. 119, s. 132. Firm name.

Endorser.

133. The endorser of a bill, by endorsing it, subject to the effect of any express stipulation hereinbefore authorized,

Engages acceptance or compensation.

(a) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it is dishonoured he will compensate the holder or a subsequent endorser who is compelled to pay it, if the requisite proceedings on dishonour are duly taken;

Genuineness and regularity.

(b) is precluded from denying to a holder in due course the genuineness and regularity in all respects of the drawer's signature and all previous endorsements;

Validity.

(c) is precluded from denying to his immediate or a subsequent endorsee that the bill was, at the time of his endorsement, a valid and subsisting bill, and that he had then a good title thereto. R.S., c. 119, s. 133; 1908, c. 8, s. 1.

Measure of damages.

134. Where a bill is dishonoured, the measure of damages which shall be deemed to be liquidated damages shall be,

Amount of bill.
Interest.

(a) the amount of the bill;

(b) interest thereon from the time of presentment for payment, if the bill is payable on demand, and from the maturity of the bill in any other case;

Expense.

(c) the expenses of noting and protest. R.S., c. 119, s. 134.

Recovery of same.

135. In case of the dishonour of a bill the holder may recover from any party liable on the bill, the drawer who has been compelled to pay the bill may recover from the acceptor, and an endorser who has been compelled to pay the bill may recover from the acceptor or from the drawer, or from a prior endorser, the damages aforesaid. R.S., c. 119, s. 135.

Re-exchange and interest.

136. In the case of a bill which has been dishonoured abroad in addition to the damages aforesaid, the holder may recover from the drawer or any endorser, and the drawer or an endorser who has been compelled to pay the bill may recover from any party liable to him, the amount of the re-exchange with interest thereon until the time of payment. R.S., c. 119, s. 136.

Transferor by delivery.

137. Where the holder of a bill payable to bearer negotiates it by delivery without endorsing it, he is called a "transferor by delivery."

Liability of.

2. A transferor by delivery is not liable on the instrument. R.S., c. 119, s. 137.

Warranty by.

138. A transferor by delivery who negotiates a bill thereby warrants to his immediate transferee, being a holder for value, that

- (a) the bill is what it purports to be
- (b) he has a right to transfer it; and
- (c) at the time of transfer he is not aware of any fact which renders it valueless. R.S., c. 119, s. 138.

Genuineness
Right to
transfer.
Bona fides.

Discharge of Bill.

139. A bill is discharged by payment in due course by or on behalf of the drawee or acceptor. Payment.

2. Payment in due course means payment made at or after the maturity of the bill to the holder thereof in good faith and without notice that his title to the bill is defective. Payment in
due course.

3. Where an accommodation bill is paid in due course by the party accommodated, the bill is discharged. R.S., c. 119, s. 139. Accommo-
dation bill.

140. Subject to the provisions aforesaid as to an accommodation bill, when a bill is paid by the drawer or an endorser, it is not discharged; but, Payment by
drawer or
endorser.

(a) where a bill payable to, or to the order of, a third party is paid by the drawer, the drawer may enforce payment thereof against the acceptor, but may not re-issue the bill; Gives rights.

(b) where a bill is paid by an endorser, or where a bill payable to drawer's order is paid by the drawer, the party paying it is remitted to his former rights as regards the acceptor or antecedent parties, and he may, if he thinks fit, strike out his own and subsequent endorsements, and again negotiate the bill. R.S., c. 119, s. 140. Second
negotiation.

141. When the acceptor of a bill is or becomes the holder of it, at or after its maturity, in his own right, the bill is discharged. R.S., c. 119, s. 141. Acceptor
holding at
maturity.

142. When the holder of a bill, at or after its maturity, absolutely and unconditionally renounces his rights against the acceptor, the bill is discharged. Renouncing
rights.

2. The liabilities of any party to a bill may in like manner be renounced by the holder before, at, or after its maturity. Against
one party.

3. A renunciation must be in writing, unless the bill is delivered up to the acceptor. Writing.

4. Nothing in this section shall affect the rights of a holder in due course without notice of renunciation. R.S., c. 119, s. 142. Holder in
due course.

143. Where a bill is intentionally cancelled by the holder or his agent, and the cancellation is apparent thereon, the bill is discharged. Cancellation
of bill.

Of any
signature.

2. In like manner, any party liable on a bill may be discharged by the intentional cancellation of his signature by the holder or his agent.

Discharge
of
endorser.

3. In such case, any endorser who would have had a right of recourse against the party whose signature is cancelled is also discharged. R.S., c. 119, s. 143.

Uninten-
tional can-
cellation.

144. A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative: Provided that where a bill or any signature thereon appears to have been cancelled, the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake, or without authority. R.S., c. 119, s. 144.

Burden of
proof.

Alteration
of bill.

145. Where a bill or acceptance is materially altered without the assent of all parties liable on the bill, the bill is voided, except as against a party who has himself made, authorized, or assented to the alteration and subsequent endorsers: Provided that where a bill has been materially altered, but the alteration is not apparent, and the bill is in the hands of a holder in due course, such holder may avail himself of the bill as if it had not been altered, and may enforce payment of it according to its original tenor. R.S., c. 119, s. 145.

Holder in
due course.

Material.

146. In particular any alteration

Date.

(a) of the date;

Sum.

(b) of the sum payable;

Time.

(c) of the time of payment;

Place.

(d) of the place of payment;

Adding
places.

(e) by the addition of a place of payment without the acceptor's assent where a bill has been accepted generally;

is a material alteration. R.S., c. 119, s. 146.

Acceptance and Payment for Honour.

Acceptance
for honour
supra
protest.

147. Where a bill of exchange has been protested for dishonour by non-acceptance, or protested for better security, and is not overdue, any person, not being a party already liable thereon, may, with the consent of the holder, intervene and accept the bill *supra* protest, for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn. R.S., c. 119, s. 147.

In part.

148. A bill may be accepted for honour for part only of the sum for which it is drawn. R.S., c. 119, s. 148.

149. Where an acceptance for honour does not expressly state for whose honour it is made, it is deemed to be an acceptance for the honour of the drawer. R.S., c. 119, s. 149. Deemed to be for honour of drawer.

150. Where a bill payable after sight is accepted for honour, its maturity is calculated from the date of protesting for non-acceptance, and not from the date of the acceptance for honour. R.S., c. 119, s. 150. Maturity of after sight bill.

151. An acceptance for honour *supra* protest, in order to be valid, must be Requirements.
 (a) written on the bill, and indicate that it is an acceptance Writing.
 for honour; and
 (b) signed by the acceptor for honour. R.S., c. 119, s. 151. Signature.

152. The acceptor for honour of a bill by accepting it engages that he will, on due presentment, pay the bill according to the tenor of his acceptance, if it is not paid by the drawee, provided it has been duly presented for payment and protested for non-payment, and that he receives notice of these facts. Liability of acceptor for honour.

2. The acceptor for honour is liable to the holder and to all parties to the bill subsequent to the party for whose honour he has accepted. R.S., c. 119, s. 152. To holder as others.

153. Where a bill has been protested for non-payment, any person may intervene and pay it *supra* protest for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn. Payment for honour *supra* protest.

2. Where two or more persons offer to pay a bill for the honour of different parties, the person whose payment will discharge most parties to the bill shall have the preference. If more than one offer.

3. Where the holder of a bill refuses to receive payment *supra* protest, he shall lose his right of recourse against any party who would have been discharged by such payment. Refusal to receive payment.

4. The payer for honour, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour, is entitled to receive both the bill itself and the protest. Entitled to bill.

5. If the holder does not on demand in such case deliver up the bill and protest, he shall be liable to the payer for honour in damages. R.S., c. 119, s. 153. Liability for refusing.

154. Payment for honour *supra* protest, in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honour, which may be appended to the protest or form an extension of it. Attestation of payment for honour.

Declaration

2. The notarial act of honour must be founded on a declaration made by the payer for honour, or his agent in that behalf, declaring his intention to pay the bill for honour, and for whose honour he pays. R.S., c. 119, s. 154.

Discharge

155. Where a bill has been paid for honour, all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is subrogated for, and succeeds to both the rights and duties of the holder as regards the party for whose honour he pays, and all parties liable to that party. R.S., c. 119, s. 155.

Subrogation.

Lost Instruments.

Holder to
have
duplicate
of lost bill.

156. Where a bill has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever, in case the bill alleged to have been lost shall be found again.

Refusal.
Compulsion.

2. If the drawer, on request as aforesaid, refuses to give such duplicate bill, he may be compelled to do so. R.S., c. 119, s. 156.

Action on
lost bill.

157. In any action or proceeding upon a bill, the court or a judge may order that the loss of the instrument shall not be set up, provided an indemnity is given to the satisfaction of the court or judge against the claims of any other person upon the instrument in question. R.S., c. 119, s. 157.

Indemnity.

Bill in a Set.

Bills in set.

158. Where a bill is drawn in a set, each part of the set being numbered, and containing a reference to the other parts, the whole of the parts constitute one bill.

Acceptance.

2. The acceptance may be written on any part, and it must be written on one part only. R.S., c. 119, s. 158.

Endorsing
more than
one part.

159. Where the holder of a set endorses two or more parts to different persons, he is liable on every such part, and every endorser subsequent to him is liable on the part he has himself endorsed as if the said parts were separate bills.

Negotiation
to different
holders.

2. Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is, as between such holders, deemed the true owner of the bill: Provided that nothing in this subsection shall affect the rights of a person who in due course accepts or pays the part first presented to him.

Acceptance
in due course.

More than
one part
accepted.

3. If the drawee accepts more than one part, and such accepted parts get into the hands of different holders in due course, he is liable on every such part as if it were a separate bill.

4. When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereof.

Part
accepted.
Payments
without de-
ivery.

5. Subject to the provisions of this section, where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged. R.S., c. 119, s. 159.

Discharge.

Conflict of Laws.

160. Where a bill drawn in one country is negotiated, accepted or payable in another, the validity of the bill as regards requisites in form is determined by the law of the place of issue, and the validity as regards requisites in form of the supervening contracts, such as acceptance, or endorsement, or acceptance *supra* protest, is determined by the law of the place where the contract was made: Provided that

Requisites of
form.

(a) where a bill is issued out of Canada, it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue;

Unstamped
bills.

(b) where a bill, issued out of Canada, conforms, as regards requisites in form, to the law of Canada, it may, for the purpose of enforcing payment thereof, be treated as valid as between all persons who negotiate, hold or become parties to it in Canada. R.S., c. 119, s. 160.

Conforming
to the law
of Canada

161. Subject to the provisions of this Act, the interpretation of the drawing, endorsement, acceptance or acceptance *supra* protest of a bill, drawn in one country and negotiated, accepted or payable in another, is determined by the law of the place where such contract is made: Provided that where an inland bill is endorsed in a foreign country, the endorsement shall, as regards the payer, be interpreted according to the law of Canada. R.S., c. 119, s. 161.

Lex loci.

Law of
Canada.

162. The duties of the holder with respect to presentment for acceptance or payment and the necessity for or sufficiency of a protest or notice of dishonour, are determined by the law of the place where the act is done or the bill is dishonoured. R.S., c. 119, s. 162.

Law as to
duties of
holder.

163. Where a bill is drawn out of but payable in Canada and the sum payable is not expressed in the currency of Canada the amount shall, in the absence of some express stipulation be calculated according to the rate of exchange for sight drafts at the place of payment on the day the bill is payable. R.S., c. 119, s. 163.

Currency.

Due date.

164. Where a bill is drawn in one country and is payable in another, the due date thereof is determined according to the law of the place where it is payable. R.S., c. 119, s. 164.

PART III.

CHEQUES ON A BANK.

Cheque defined.

165. A cheque is a bill of exchange drawn on a bank, payable on demand.

Provisions as to bills apply.

2. Except as otherwise provided in this Part, the provisions of this Act applicable to a bill of exchange payable on demand apply to a cheque. R.S., c. 119, s. 165.

Presentment for payment.

166. Subject to the provisions of this Act,

(a) where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or the person on whose account it is drawn had the right at the time of such presentment, as between him and the bank, to have the cheque paid, and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of such bank to a larger amount than he would have been had such cheque been paid;

Measure of damage.

Holder becomes creditor.

(b) the holder of such cheque, as to which such drawer or person is discharged, shall be a creditor, in lieu of such drawer or person, of such bank to the extent of such discharge, and entitled to recover the amount from it.

Reasonable time.

2. In determining what is a reasonable time, within this section, regard shall be had to the nature of the instrument, the usage of trade and of banks, and the facts of the particular case. R.S., c. 119, s. 166.

Authority to pay.

167. The duty and authority of a bank to pay a cheque drawn on it by its customer, are determined by

Countermand.
Death.

(a) countermand of payment;

(b) notice of the customer's death. R.S., c. 119, s. 167.

Crossed Cheques.

Definition.

168. Where a cheque bears across its face an addition of

(a) the word "bank" between two parallel transverse lines, either with or without the words "not negotiable";

or

(b) two parallel transverse lines simply, either with or without the words "not negotiable";

General.

such addition constitutes a crossing, and the cheque is crossed generally.

2. Where a cheque bears across its face an addition of the name of a bank, either with or without the words "not negotiable," that addition constitutes a crossing, and the cheque is crossed specially and to that bank. R.S., c. 119, s. 168. Special.

169. A cheque may be crossed generally or specially by the drawer. By drawer.

2. Where a cheque is uncrossed, the holder may cross it generally or specially. By holder.

3. Where a cheque is crossed generally, the holder may cross it specially. Varying.

4. Where a cheque is crossed generally or specially, the holder may add the words *Not negotiable*. Words may be added.

5. Where a cheque is crossed specially the bank to which it is crossed may again cross it specially to another bank for collection. By bank for collection.

6. Where an uncrossed cheque, or a cheque crossed generally, is sent to a bank for collection, it may cross it specially to itself. Changing crossing.

7. A crossed cheque may be reopened or uncrossed by the drawer writing between the transverse lines, the words *Pay cash*, and initialling the same. R.S., c. 119, s. 169. Uncrossing.

170. A crossing authorized by this Act is a material part of the cheque. Materially.

2. It shall not be lawful for any person to obliterate or, except as authorized by this Act, to add to or alter the crossing. R.S., c. 119, s. 170. Altering crossing.

171. Where a cheque is crossed specially to more than one bank, except when crossed to another bank as agent for collection, the bank on which it is drawn shall refuse payment thereof. R.S., c. 119, s. 171. Crossed to more than one bank.

172. Where the bank on which a cheque so crossed is drawn, nevertheless pays the same, or pays a cheque crossed generally otherwise than to a bank, or, if crossed specially, otherwise than to the bank to which it is crossed, or to the bank acting as its agent for collection, it is liable to the true owner of the cheque for any loss he sustains owing to the cheque having been so paid: Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorized by this Act, the bank paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been obliterated. Liability for improper payment.

Bona fides.

obliterated or having been added to or altered otherwise than as authorized by this Act, and of payment having been made otherwise than to a bank or to the bank to which the cheque is or was crossed, or to the bank acting as its agent for collection, as the case may be. R.S., c. 119, s. 172.

Protection
in such case

173. Where the bank, on which a crossed cheque is drawn, in good faith and without negligence pays it, if crossed generally to a bank, or, if crossed specially, to the bank to which it is crossed, or to a bank acting as its agent for collection, the bank paying the cheque, and if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof. R.S., c. 119, s. 173.

"Not
negotiable,
cross.

174. Where a person takes a crossed cheque which bears on it the words "not negotiable," he shall not have and shall not be capable of giving a better title to the cheque than that which had the person from whom he took it. R.S., c. 119, s. 174.

Customer
without title.

Bank
receiving
payment.

Bona fides.

175. Where a bank, in good faith and without negligence, receives for a customer payment of a cheque crossed generally or specially to itself, and the customer has no title, or a defective title thereto, the bank shall not incur any liability to the true owner of the cheque by reason only of having received such payment. R.S., c. 119, s. 175.

PART IV.

PROMISSORY NOTES.

Definition.

176. A promissory note is an unconditional promise in writing made by one person to another, signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person, or to bearer.

Endorsed by
maker.

2. An instrument in the form of a note payable to the maker's order is not a note within the meaning of this section, unless it is endorsed by the maker.

Pledge.

Invalidity.

3. A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof. R.S., c. 119, s. 176.

Inland note.

177. A note which is, or on the face of it purports to be, both made and payable within Canada, is an inland note.

Foreign note.

2. Any other note is a foreign note. R.S., c. 119, s. 177.

Delivery.

178. A promissory note is inchoate and incomplete until delivery thereof to the payee or bearer. R.S., c. 119, s. 178.

179. A promissory note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally, according to its tenor. Joint and several note.

2. Where a note runs "I promise to pay," and is signed by two or more persons, it is deemed to be their joint and several note. R.S., c. 119, s. 179. Individual promise.

180. Where a note payable on demand has been endorsed, it must be presented for payment within a reasonable time of the endorsement. Demand note presentment.

2. In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case. R.S., c. 119, s. 180. Reasonable time.

181. If a promissory note payable on demand, which has been endorsed, is not presented for payment within a reasonable time the endorser is discharged: Provided that if it has, with the assent of the endorser, been delivered as a collateral or continuing security it need not be presented for payment so long as it is held as such security. R.S., c. 119, s. 181. Endorser discharged.
Security.

182. Where a note payable on demand is negotiated, it is not deemed to be overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue. R.S., c. 119, s. 182. Not deemed overdue.

183. Where a promissory note is in the body of it made payable at a particular place, it must be presented for payment at that place. Presentment where.

2. In such case the maker is not discharged by the omission to present the note for payment on the day that it matures; but if any suit or action is instituted thereon against him before presentation, the costs thereof shall be in the discretion of the court. Liability of maker.

3. If no place of payment is specified in the body of the note, presentment for payment is not necessary in order to render the maker liable. R.S., c. 119, s. 183. Note payable generally.

184. Presentment for payment is necessary in order to render the endorser of a note liable. As to endorser.

2. Where a note is in the body of it made payable at a particular place, presentment at that place is necessary in order to render an endorser liable. Place where.

3. When a place of payment is indicated by way of memorandum only, presentment at that place is sufficient to render the endorser liable, but a presentment to the maker elsewhere, if sufficient in other respects, shall also suffice. R.S., c. 119, s. 184. What sufficient.

Maker.
Engagement.
Estoppel.

185. The maker of a promissory note, by making it,
(a) engages that he will pay it according to its tenor;
(b) is precluded from denying to a holder in due course the existence of the payee and his then capacity to endorse.
R.S., c. 119, s. 185.

Application
of Act to
notes.

186. Subject to the provisions of this Part, and except as by this section provided, the provisions of this Act relating to bills of exchange apply, with the necessary modifications, to promissory notes.

Terms corresponding.

2. In the application of such provisions the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first endorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer's order.

Provisions inapplicable.

3. The provisions of this Act as to bills relating to
(a) presentment for acceptance;
(b) acceptance;
(c) acceptance *supra* protest;
(d) bills in a set;

do not apply to notes. R.S., c. 119, s. 186.

Protest of
foreign
notes.

187. Where a foreign note is dishonoured, protest thereof is unnecessary, except for the preservation of the liabilities of endorsers. R.S., c. 119, s. 187.

SCHEDULE.

FORM A.

NOTING FOR NON-ACCEPTANCE.

(Copy of Bill and Endorsements.)

On the 19 , the above bill was, by me, at the request of presented for acceptance to E. F., the drawee, personally (or, at his residence, office or usual place of business), in the city (town or village) of and I received for answer: " ";

The said bill is therefore noted for non-acceptance.

A. B.,
Notary Public.

(Date and place.)

19 .

Due notice of the above was by me served upon {A. B.,
C. D.,}

the { drawer, } personally, on the day of
{ endorser, }
(or, at his residence, office or usual place of business) in
, on the day of (or, by depositing
such notice, directed to him at in His Majesty's

post office in the city, town *or* village, on the day
of , and prepaying the postage thereon).

A. B.,

Notary Public.

(*Date and place.*)

19 .

R.S., c. 119, Sch., Form A.

FORM B.

PROTEST FOR NON-ACCEPTANCE OR FOR NON-PAYMENT OF A BILL PAYABLE GENERALLY.

(*Copy of Bill and Endorsements.*)

On this day of , in the year 19 , I,
A. B., notary public for the province of , dwelling
at , in the province of , at the request
of , did exhibit the original bill of exchange,
whereof a true copy is above written, unto E. F.,
the {drawee
acceptor} thereof personally (*or*, at his residence,
office *or* usual place of business) in , and, speaking
to himself (*or* his wife, his clerk, or his servant, etc.,) did
demand {acceptance
payment} thereof; unto which demand {he
she} answered: “ ”

Wherefore I, the said notary, at the request aforesaid, have
protested, and by these presents do protest against the ac-
ceptor, drawer and endorsers (*or* drawer and endorsers) of the
said bill, and other parties thereto or therein concerned, for
all exchange, re-exchange, and all costs, damages and interest,
present and to come, for want of
{acceptance
payment} of the said bill.

All of which I attest by my signature.

A. B.,

Notary Public.

R.S., c. 119, Sch., Form B.

FORM C.

PROTEST FOR NON-ACCEPTANCE OR FOR NON-PAYMENT OF A BILL PAYABLE AT A STATED PLACE.

(*Copy of Bill and Endorsements.*)

On this day of in the year 19 , I,
A. B., notary public for the province of , dwelling
at , in the province of , at the request
of , did exhibit the original bil. of exchange
whereof

whereof a true copy is above written, unto E. F., the
 { drawee }
 { acceptor } thereof, at _____, being the stated
 place where the said bill is payable, and there speaking
 to _____ did demand { acceptance }
 { payment }
 of the said bill; unto which demand he answered: "
 _____".

Wherefore I, the said notary, at the request aforesaid,
 have protested, and by these presents do protest against
 the acceptor, drawer and endorsers (*or* drawer and endor-
 sers) of the said bill and all other parties thereto or therein
 concerned, for all exchange, re-exchange, costs, damages
 and interest, present and to come for want of { acceptance }
 { payment }
 of the said bill

All of which I attest by my signature.

A. B.,
Notary Public.

R.S., c. 119, Sch., Form C.

FORM D.

PROTEST FOR NON-PAYMENT OF A BILL NOTED, BUT NOT PRO- TESTED FOR NON-ACCEPTANCE.

If the protest is made by the same notary who noted the bill, it should immediately follow the act of noting and memorandum of service thereof, and begin with the words "and afterwards on, etc.," continuing as in the last preceding form, but introducing between the words "did" and "exhibit" the word "again," and in a parenthesis, between the words "written" and "unto," the words "and which bill was by me duly noted for non acceptance on the _____ day of _____."

But if the protest is not made by the same notary, then it should follow a copy of the original bill and endorsements and noting marked on the bill—and then in the protest introduce, in a parenthesis, between the words "written" and "unto," the words "and which bill was on the _____ day of _____, _____, notary public for the province of _____, noted for non-acceptance, as appears by his note thereof marked on the said bill."

R.S., c. 119, Sch., Form D.

FORM E.

PROTEST FOR NON-PAYMENT OF A NOTE PAYABLE GENERALLY.

(Copy of Note and Endorsements.)

On this day of , in the year 19 , I, A. B., notary public for the province of , dwelling at , in the province of , at the request of , did exhibit the original promissory note, whereof a true copy is above written, unto the promisor, personally (*or*, at his residence, office *or* usual place of business), in , and speaking to himself (*or* his wife, his clerk *or* his servant, etc.) did demand payment thereof; unto which demand {he
she} answered: “ .”

Wherefore I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the promisor and endorsers of the said note, and all other parties thereto or therein concerned, for all costs, damages and interest, present and to come, for want of payment of the said note.

All of which I attest by my signature.

A. B.,
Notary Public.

R.S., c. 119, Sch., Form E.

FORM F.

PROTEST FOR NON-PAYMENT OF A NOTE PAYABLE AT A STATED PLACE.

(Copy of Note and Endorsements.)

On this _____ day of _____, in the year 19____, I, A. B., notary public for the province of _____, dwelling at _____, in the province of _____, at the request of _____, did exhibit the original promissory note, whereof a true copy is above written, unto the promisor, at _____, being the stated place where the said note is payable, and there, speaking to _____, did demand payment of the said note, unto which demand he answered: " _____."

Whereof I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the promisor and endorsers of the said note, and all other parties thereto or therein concerned, for all costs, damages and interest, present and to come, for want of payment of the said note.

All of which I attest by my signature.

A. B.,
Notary Public.

R.S., c. 119, Sch., Form F.

FORM G.

NOTARIAL NOTICE OF NOTING, OR OF A PROTEST FOR NON-
ACCEPTANCE, OR OF A PROTEST FOR
NON-PAYMENT OF A BILL.

(Place and Date of Noting or of Protest.)

1st.

To P. Q. (*the drawer*)
at

Sir,
Your bill of exchange for \$, dated at
the day of , upon E. F., in favour of C. D.,
payable days after { sight
date } was this day, at the
request of duly { noted
protested }
by me for { non-acceptance
non-payment }

A. B.,
Notary Public.

(Place and Date of Noting or of Protest.)

2nd.

To C. D., (*endorser*)
(*or F. G.*)
at

Sir,
Mr. P. Q.'s bill of exchange for \$, dated at
the day of , upon E. F., in your favour (or in favour
of C. D.,) payable days after { sight,
date, } and by you
endorsed, was this day at the request of duly
{ noted
protested } by me for { non-acceptance
non-payment }

A. B.,
Notary Public.

R.S., c. 119, Sch., Form G.

FORM H.

NOTARIAL NOTICE OF PROTEST FOR NON-PAYMENT OF A NOTE.

(Place and Date of Protest.)

To

at

Sir,

Mr. P. Q.'s promissory note for \$ _____, dated at _____, the _____ day of _____ payable { days } { months } after { on — } date to { you } { E. F. } or order, and endorsed by you, was this day, at the request of _____, duly protested by me for non-payment.

R.S., c. 119, Sch., Form H.

A. B.,

Notary Public.

FORM I.

NOTARIAL SERVICE OF NOTICE OF A PROTEST FOR NON-ACCEPTANCE OR NON-PAYMENT OF A BILL, OR NOTE.

(to be subjoined to the Protest.)

And afterwards, I, the aforesaid protesting notary public, did serve due notice, in the form prescribed by law, of the foregoing protest for { non-acceptance } { non-payment, } of the { bill } { note } thereby protested upon { P.Q., } { C.D., } the { drawer } { endorser } personally, on the _____ day of (or, at his residence, office or usual place of business) in _____, on the _____ day of _____; (or, by depositing such notice, directed to the said { P.Q., } { C.D., } at _____, in His Majesty's post office in _____ on the _____ day of _____, and prepaying the postage thereon).

In testimony whereof, I have, on the last mentioned day and year, at _____ aforesaid, signed these presents.

A. B.,

Notary Public.

R.S., c. 119, Sch., Form I.

NEGOTIABLE PAPERS

100

HENRY BROWN, (*Drawer*).

\$300 ^{xx}/₁₀₀

